

SECTION 6. Section 8, Article 42.18, Code of Criminal Procedure, is amended by adding Subsection (o) to read as follows:

(o) *In addition to other conditions imposed by a parole panel under this article, the parole panel shall require as a condition of parole or release to mandatory supervision that a prisoner for whom the court has made an affirmative finding under Article 42.014 of this code perform not less than 300 hours of community service at a project designated by the parole panel that primarily serves the person or group who was the target of the defendant.*

SECTION 7. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 8. This Act takes effect September 1, 1993.

SECTION 9. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 7, 1993, by a viva-voce vote; May 27, 1993, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 28, 1993, House granted request of the Senate; May 29, 1993, Senate adopted Conference Committee Report by a viva-voce vote; passed the House, with amendments, on May 25, 1993, by a non-record vote; May 28, 1993, House granted request of the Senate for appointment of Conference Committee; May 29, 1993, House adopted Conference Committee Report by a non-record vote.

Approved June 19, 1993.

Effective Sept. 1, 1993.

## CHAPTER 988

### S.B. No. 532

#### AN ACT

relating to the creation of the state jail division of the Texas Department of Criminal Justice and to the operations of other divisions of the department and community supervision and correction departments, to the certification of certain offenders, and to the confinement of certain felons convicted of state jail felonies or awaiting transfer from county jails to the institutional division of the Texas Department of Criminal Justice; providing penalties; making an appropriation from the economic stabilization fund.

*Be it enacted by the Legislature of the State of Texas:*

#### ARTICLE 1

SECTION 1.01. Section 491.001(a), Government Code, is amended by adding Subdivision (7) to read as follows:

(7) *"State jail division" means the state jail division of the department.*

SECTION 1.02. Section 493.002(a), Government Code, is amended to read as follows:

(a) The following divisions are within the department:

- (1) the community justice assistance division;
- (2) the institutional division; [and]
- (3) the pardons and paroles division; and
- (4) the state jail division.

SECTION 1.03. Chapter 493, Government Code, is amended by adding Section 493.0051 to read as follows:

*Sec. 493.0051. STATE JAIL DIVISION. The state jail division shall operate and manage state jails to confine defendants described by Section 507.002.*

SECTION 1.04. Section 494.008(a), Government Code, is amended to read as follows:

(a) The director of the institutional division or the director's designee may authorize employees of the institutional division to transport inmates and to apprehend escapees from any [the] division of the department. An employee acting under authority granted by the director has the same powers and duties as a peace officer under the laws of this state, except that the employee may not act without receiving express orders from the director or the director's designee, and may exercise those powers and perform those duties throughout the state but only during duty hours.

SECTION 1.05. Section 498.003(e), Government Code, is amended to read as follows:

(e) If a person confined in a county jail or a transfer facility operated by the institutional division is transferred to any other facility of the institutional division for confinement purposes, the director of the institutional division shall award good conduct time to the person up to an amount equal to that which the person could have accrued during the period of confinement [imprisonment] in the county jail or transfer facility if instead the person had been imprisoned [incarcerated] in the division during that period.

SECTION 1.06. Chapter 499, Government Code, is amended by adding Subchapter G to read as follows:

#### SUBCHAPTER G. TRANSFER FACILITIES

*Sec. 499.151. AUTHORITY TO OPERATE OR CONTRACT FOR TRANSFER FACILITIES. (a) The institutional division may operate, maintain, and manage transfer facilities to confine inmates described by Section 499.152, and the board may finance and construct those facilities. The institutional division, with the approval of the board, may contract with a private vendor or the commissioners court of a county for the financing, construction, operation, maintenance, or management of a transfer facility.*

*(b) The board and the institutional division shall ensure that a service described by Subsection (a) is provided in compliance with standards established under Section 511.017, whether the board or the institutional division provides the service or contracts with an entity listed by Subsection (a) for the provision of the service.*

*(c) A transfer facility authorized by this subchapter may be located on private land or on land owned by the federal government, the state, or a political subdivision of the state. The board may accept land donated for that purpose.*

*(d) A commissioners court of a county may not enter into a contract or receive a grant under this section unless:*

*(1) the commissioners court first consults with the community justice council serving the county; and*

*(2) the most recent community justice plan for the county served by the community justice council that has been approved by the community justice assistance division describes the contract or grant.*

*Sec. 499.152. ELIGIBLE INMATES. The institutional division may confine an inmate in a transfer facility authorized by this subchapter:*

*(1) only if paperwork and processing required under Section 8(a), Article 42.09, Code of Criminal Procedure, for transfer of the inmate to the division has been completed; and*

*(2) only during a period in which the inmate would otherwise be confined in a county jail awaiting transfer to the division following conviction of a felony or revocation of probation, parole, or release on mandatory supervision.*

*Sec. 499.153. ADMISSIONS POLICY. The board shall develop, adopt, and enforce:*

*(1) an admissions policy to accept from county jails eligible inmates described by Section 499.152 for confinement in transfer facilities authorized by this subchapter; and*

(2) a transfer policy to transfer eligible inmates described by Section 499.152 from transfer facilities authorized by this subchapter to other facilities of the institutional division.

Sec. 499.154. *CUSTODY STATUS; GOOD CONDUCT TIME.* An inmate described by Section 499.152 confined in a transfer facility authorized by this subchapter earns good conduct time in the same manner and subject to the same rules as if the inmate were confined in a county jail awaiting transfer to the institutional division.

Sec. 499.155. *DURATION OF CONFINEMENT.* (a) Except as provided by Subsection (b), the institutional division may not confine an inmate described by Section 499.152 in a transfer facility authorized by this subchapter for a period that exceeds 12 months.

(b) If an inmate described by Section 499.152 is confined in a transfer facility, is released from or transferred from the transfer facility or returned to the convicting county under court order, and is convicted of a subsequent offense, is returned from the convicting county, or is the subject of a revocation of parole or mandatory supervision, the institutional division shall not calculate the previous period of confinement in determining the maximum period the defendant may be confined in a transfer facility following conviction of the subsequent offense, return from the convicting county, or revocation.

(c) If an inmate is discharged or released on parole or mandatory supervision from a transfer facility, the inmate is entitled to receive release or discharge money from the institutional division in the same amount as an inmate is entitled to receive on release or discharge from any other facility of the institutional division under Section 501.015.

SECTION 1.07. Subtitle G, Title 4, Government Code, is amended by adding Chapter 507 to read as follows:

#### CHAPTER 507. STATE JAIL DIVISION

##### SUBCHAPTER A. STATE JAIL FELONY FACILITIES

Sec. 507.001. *AUTHORITY TO OPERATE OR CONTRACT FOR STATE JAIL FELONY FACILITIES.* (a) The state jail division may operate, maintain, and manage state jail felony facilities to confine inmates described by Section 507.002, and the board may finance and construct those facilities. The state jail division, with the approval of the board, may contract with the institutional division, a private vendor, or the commissioners court of a county for the construction, operation, maintenance, or management of a state jail felony facility. The community justice assistance division, with the approval of the board, may contract with or make a grant to a community supervision and corrections department for the construction, operation, maintenance, or management of a state jail felony facility. A community supervision and corrections department or the commissioners court of a county that contracts or receives a grant under this section may subcontract with a private vendor for the provision of any or all services described by this subsection. A community supervision and corrections department that contracts or receives a grant under this section may subcontract with the commissioners court of a county for the provision of any or all services described by this subsection. The board may contract with a private vendor or the commissioners court of a county for the financing or construction of a state jail felony facility.

(b) The community justice assistance division, after consultation with the advisory committee on community supervision and corrections department management to the judicial advisory council to the community justice assistance division, shall adopt reasonable rules and procedures establishing minimum requirements for work programs and programs of rehabilitation, education, and recreation in state jail felony facilities operated under contracts with or grants from the community justice assistance division. For each state jail felony facility operated by or for the state jail division, the state jail division shall request the assistance of the community supervision and corrections departments and the community justice councils served by the facility in developing work programs and programs of rehabilitation, education, and recreation for defendants confined in the facility. In developing the programs, the state jail division and the community justice assistance division shall attempt to structure programs so that they are operated on a 90-day cycle.

(c) The board shall ensure that a service described by Subsection (a) is provided in compliance with standards established by the board, whether the board, the state jail division, or the community justice assistance division provides the service or contracts with or makes a grant to an entity listed in Subsection (a) for the provision of the service. The board shall ensure that a program described by Subsection (b) is provided in compliance with minimum requirements established under Subsection (b), whether the state jail division or the community justice assistance division provides the service or contracts with or makes a grant to an entity listed in Subsection (a) for the provision of the service.

(d) A state jail felony facility authorized by this subchapter may be located on private land or on land owned by the federal government, the state, a community supervision and corrections department, or a political subdivision of the state. The board may accept land donated for that purpose.

(e) A commissioners court of a county or a community supervision and corrections department may not enter into a contract or receive a grant under this section unless:

(1) the commissioners court or department first consults with the community justice council serving the county or serving the department; and

(2) the most recent community justice plan for the county or department served by the community justice council that has been approved by the community justice assistance division describes the contract or grant.

**Sec. 507.002. ELIGIBLE DEFENDANTS.** The state jail division may confine in a state jail felony facility authorized by this subchapter defendants required by a judge to serve a term of confinement in a state jail felony facility following conviction of an offense punishable as a state jail felony.

**Sec. 507.003. REGIONS.** The board shall designate not fewer than nine regions in the state for the purpose of providing regional state jail felony facilities. The board shall ensure that regions are designed to efficiently serve community supervision and corrections departments. The board may not designate a region that contains a part of an area served by a community supervision and corrections department. The board may designate a region that contains only one judicial district, but only if the judicial district serves a municipality with a population of 400,000 or more. Any other provision of law that would otherwise require the board to designate regions on the basis of uniform service regions does not apply to this section.

**Sec. 507.004. ALLOCATION POLICIES.** The board shall adopt and enforce:

(1) a regional allocation policy to allocate the number of facilities and beds to each region established under Section 507.003; and

(2) an intra-regional allocation policy for each region, to allocate the number of facilities and beds within a region to the community supervision and corrections departments in that region, unless those departments by their own agreement establish the allocation of beds in the region.

**Sec. 507.005. IMPLEMENTATION.** (a) The board shall provide for the financing, construction, operation, maintenance, and management of the state jail felony facilities for which funds are appropriated under the General Appropriations Act or any other Act of the 73rd Legislature, Regular Session, 1993, in two modes.

(b) In mode one, the board and the state jail division shall provide for state jail felony facilities that contain not less than 70 percent of the beds for which funds are appropriated as described by Subsection (a). The board shall consider the regions designated under Section 507.003 and attempt to place state jail felony facilities at locations that are sufficiently geographically diverse to serve the needs of each of those regions. The state jail division, with the approval of the board, shall contract with the institutional division for the construction, operation, maintenance, and management of facilities included in mode one.

(c) In mode two, the board and at the discretion of the board either or both the state jail division or the community justice assistance division shall provide for state jail felony facilities that contain the percentage of beds for which funds are appropriated as described by Subsection (a) but that are not included in mode one. For facilities provided by the state jail division, the division, with the approval of the board, shall attempt to contract with

private vendors or commissioners courts of counties for the construction, operation, maintenance, or management of state jail felony facilities included in mode two. For facilities provided by the community justice assistance division, the division, with the approval of the board, shall attempt to contract with or make grants to community supervision and corrections departments for the construction, operation, maintenance, or management of state jail felony facilities included in mode two. The state jail division, with the approval of the board, may establish pilot programs with counties and the community justice assistance division, with the approval of the board, may establish pilot programs with community supervision and corrections departments. As part of a pilot program, a county or department may agree to construct and operate a state jail felony facility included in mode two under a formula of mutual accountability for sentencing practices and the funding of criminal justice programs. A commissioners court of a county or a community supervision and corrections department may not enter into a contract or receive a grant under this subsection unless:

- (1) the commissioners court or department first consults with the community justice council serving the county or serving the department; and
  - (2) the most recent community justice plan for the county or department served by the community justice council that has been approved by the community justice assistance division describes the contract or grant.
- (d) The board, not later than October 1, 1993, shall adopt a timetable for the implementation of mode one and mode two. The board shall design the timetable in a manner that permits the institutional division to meet the obligations imposed on the division by Section 499.121(c).
- (e) This section expires September 1, 1995.

**Sec. 507.006. USE OF FACILITY FOR TRANSFER INMATES.** (a) Notwithstanding any other provision of this subchapter, the state jail division, with the approval of the board, may designate one or more state jail felony facilities to house inmates who are eligible for confinement in a transfer facility under Section 499.152, but only if the designation does not deny placement in a state jail felony facility of defendants required to serve terms of confinement in a facility following conviction of state jail felonies.

(b) Sections 499.154 and 499.155 apply to an inmate eligible for confinement in a transfer facility under Section 499.152 who is nonetheless confined in a state jail felony facility in the same manner as if the inmate were confined in a transfer facility.

(c) This section expires September 1, 1997.

#### SUBCHAPTER B. MISCELLANEOUS PROVISIONS

**Sec. 507.021. EMPLOYEES: LIMITED LAW ENFORCEMENT POWERS.** (a) The director of the state jail division or the director's designee may authorize employees of the division to transport defendants and to apprehend escapees from any division of the department. An employee acting under authority granted by the director has the same powers and duties as a peace officer under the laws of this state, except that the employee may not act without receiving express orders from the director or the director's designee, and may exercise those powers and perform those duties throughout the state, but only during duty hours.

(b) The state jail division may allow employees who are granted law enforcement authority under this section to assist peace officers in any county of the state if the assistance is requested for the purpose of apprehending an escapee of a municipal or county jail and if the division determines that the assistance will not jeopardize the safety and security of the division and its personnel. An employee who assists a peace officer in the performance of the officer's duties has the same powers and duties as the officer requesting assistance.

(c) An employee of the state jail division may not enforce the laws of this state relating to the prevention of misdemeanors and the detention of persons who commit misdemeanors, including laws regulating traffic and the use of state highways.

(d) *An employee described by Subsection (a) may not be considered a peace officer for any purposes other than those specified under this section and is not required to be certified by the Commission on Law Enforcement Officer Standards and Education.*

**Sec. 507.022. EMPLOYEES' SALARIES, ROOM AND BOARD, AND MEDICAL CARE.** (a) *Salaries of employees of the state jail division and the provision of board, lodging, uniforms, and other provisions to employees are as provided by the General Appropriations Act.*

(b) *Employees of the state jail division who are injured in the line of duty are entitled to receive free medical care and hospitalization from institutional division doctors and the institutional division hospital.*

**Sec. 507.023. AIDS AND HIV EDUCATION; TESTING.** (a) *The state jail division shall establish and provide education programs to educate state jail division employees and defendants in state jail felony facilities about AIDS and HIV in the same manner as the institutional division establishes and provides programs for employees and inmates under Section 501.054.*

(b) *The state jail division shall adopt a policy for handling a defendant with AIDS or HIV and may test a defendant for AIDS or HIV in the same manner and subject to the same conditions as apply to the institutional division under Section 501.054.*

(c) *In this section, "AIDS" and "HIV" have the meanings assigned by Section 81.101, Health and Safety Code.*

**Sec. 507.024. TRANSPORTATION OF DEFENDANTS.** *The board shall adopt rules to provide for the safe transfer of defendants from counties to state jail felony facilities. A sheriff may transport defendants to a state jail felony facility if the sheriff is able to perform the service as economically as if the service were performed by the division. The state jail division is responsible for the cost of transportation of defendants to the division. Defendants may be transported with other persons being transported to the custody of the department provided appropriate security precautions prescribed by policies of the department are taken.*

**Sec. 507.025. MEDICAL CARE.** *The state jail division, with the approval of the board, may contract with the institutional division, a private vendor, or any public health care provider for the provision of medical services to defendants in state jail felony facilities.*

**Sec. 507.026. CHANGE IN DESIGNATION OF FACILITY.** *The board may designate any facility under its control as a state jail felony facility and confine state jail felons in that facility.*

**Sec. 507.027. INSPECTIONS.** *The board shall adopt rules relating to inspections by the department of state jail felony facility construction projects.*

**SECTION 1.08.** Subsections (h) and (i) of Section 501.059, Government Code, as added by S.B. 378, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(h) *To the extent possible the committee shall integrate the managed care network with the public medical schools of this state and the component and affiliated hospitals of those medical schools.*

(i) *For those services for which the public medical schools and their components and affiliates cannot provide, the committee shall initiate a competitive bidding process for contracts with other providers for medical care to inmates confined in the institutional division.*

**SECTION 1.09.** Chapter 511, Government Code, is amended by adding Section 511.017 to read as follows:

**Sec. 511.017. DUTIES RELATED TO STATE JAIL FELONY FACILITIES AND INSTITUTIONAL DIVISION TRANSFER FACILITIES.** (a) *In this section:*

(1) *"State jail division" means the state jail division of the Texas Department of Criminal Justice.*

(2) *"State jail felony facility" means a state jail felony facility authorized by Subchapter A, Chapter 507.*

(3) "Transfer facility" means a transfer facility operated by the institutional division of the Texas Department of Criminal Justice under Subchapter G, Chapter 499.

(b) The commission shall provide the state jail division with consultation and technical assistance relating to the operation and construction of state jail felony facilities.

SECTION 1.10. The state jail division of the Texas Department of Criminal Justice shall propose and the Texas Board of Criminal Justice, not later than October 1, 1993, shall designate regions as described by Section 507.003, Government Code, as added by this article, and shall adopt the allocation policies described by Section 507.004, Government Code, as added by this article.

SECTION 1.11. Section 811.001(8), Government Code, is amended to read as follows:

(8) "Custodial officer" means a member of the retirement system who is employed by the institutional division or the state jail division of the Texas Department of Criminal Justice [Corrections] and certified by the [that] department as having a normal job assignment that requires frequent or infrequent regularly planned contact with, and in close proximity to, inmates of the institutional division or inmates or defendants confined in the state jail division [that institution] without the protection of bars, doors, security screens, or similar devices and includes assignments normally involving supervision or the potential for supervision of inmates in inmate housing areas, educational or recreational facilities, industrial shops, kitchens, laundries, medical areas, agricultural shops or fields, or in other areas on or away from property of the institutional division or the state jail division [institution].

SECTION 1.12. Section 2(a)(4), Chapter 86, Acts of the 60th Legislature, Regular Session, 1967 (Article 6228f, Vernon's Texas Civil Statutes), is amended to read as follows:

(4) "Custodial personnel of the Texas Department of Corrections" means a member of the class of employees of the institutional division or the state jail division of the Texas Department of Criminal Justice formally designated as custodial personnel by the Texas Board of Criminal Justice or its predecessor in function [the class of employees of the Department of Corrections designated as custodial personnel by a resolution adopted by the Texas Board of Corrections].

SECTION 1.13. Section 9, Chapter 86, Acts of the 60th Legislature, Regular Session, 1967 (Article 6228f, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 9. DUTY OF THE TEXAS BOARD OF CRIMINAL JUSTICE [CORRECTIONS]. The Texas Board of Criminal Justice shall adopt and include in its minutes a formal designation identifying the classes of persons who are custodial personnel of the institutional division or the state jail division of the Texas Department of Criminal Justice so that there is no uncertainty about which persons are custodial personnel [It shall be the duty of the Texas Board of Corrections to adopt a formal designation spread on its minutes identifying the classes of persons who are custodial personnel of the Texas Department of Corrections. It is the intent of the Legislature in enacting this provision that the constitutional provisions of Section 51-d, Article III, of the Texas Constitution, be observed in order that there be no uncertainty about which persons are custodial personnel and which are not].

SECTION 1.14. Subchapter B, Chapter 13, Education Code, is amended by adding Section 13.0323 to read as follows:

Sec. 13.0323. RESTRICTED CERTIFICATION OF INDIVIDUAL CONVICTED OF A CRIMINAL OFFENSE. (a) The State Board of Education by rule shall provide for restricted certification as a teacher of an individual convicted of a criminal offense who would be eligible for certification to teach in a public school in this state if the individual had not been convicted of the offense.

(b) An individual certified under this section may serve as a teacher only in a correctional facility operated by an agency of the state or a political subdivision of the state.

SECTION 1.15. This article takes effect September 1, 1993.

## ARTICLE 2

SECTION 2.01. Article 42.13, Code of Criminal Procedure, is amended to read as follows:

**Art. 42.13. COMMUNITY JUSTICE ASSISTANCE DIVISION OF THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE**

**Sec. 1. PURPOSE; DEFINITIONS.** (a) The purpose of this article is to:

- (1) allow localities to increase their involvement and responsibility in developing sentencing programs that provide effective sanctions for *criminal defendants* [~~felony offenders~~];
- (2) provide increased opportunities for *criminal defendants* [~~felony offenders~~] to make restitution to victims of crime through financial reimbursement or community service;
- (3) provide increased use of community penalties designed specifically to meet local needs; and
- (4) promote efficiency and economy in the delivery of community-based correctional programs consistent with the objectives defined by Section 1.02, Penal Code.

(b) In this article:

(1) "Board" means the Texas Board of Criminal Justice.

(2) "*Community corrections facility*" means a physical structure, established by a judicial district after authorization of the establishment of the structure has been included in the local community justice plan, that is operated by a department or operated for a department by an entity under contract with the department, for the purpose of confining persons placed on community supervision and providing services and programs to modify criminal behavior, deter criminal activity, protect the public, and restore victims of crime. The term includes:

- (A) a restitution center;
- (B) a court residential treatment facility;
- (C) a substance abuse treatment facility;
- (D) a custody facility or boot camp;
- (E) a facility for an offender with a mental impairment, as defined by Section 614.001, Health and Safety Code;
- (F) an intermediate sanction facility; and
- (G) a state jail felony facility.

(3) "Department" means a community supervision and corrections department established under Article 42.131 of this code.

(4) [(3)] "Division" means the community justice assistance division of the Texas Department of Criminal Justice.

(5) "State aid" means funds appropriated by the legislature to the division to provide financial assistance to:

(A) judicial districts, for:

- (i) the administration of departments;
- (ii) the development and improvement of community supervision services and community-based correctional programs;
- (iii) the establishment and operation of community corrections facilities; and
- (iv) assistance in conforming with standards and policies of the division and the board; and

(B) state agencies, counties, municipalities, and nonprofit organizations for the implementation and administration of community-based sanctions and programs.

**Sec. 2. STANDARDS AND PROCEDURES.** (a) The division shall propose and the board shall adopt reasonable rules establishing:

- (1) [~~establishing~~] minimum standards for programs, community corrections facilities and other facilities, equipment, and other aspects of the operation of departments;
- (2) [~~establishing an application process and procedures for funding community corrections facilities; and~~]
- [(3)] a list and description of core services that should be provided by each department;



*(3) methods for measuring the success of community supervision and corrections programs, including methods for measuring rates of diversion, program completion, and recidivism; and*

*(4) [establishing] a format for community justice plans.*

(b) In establishing standards relating to the operation of departments, the division shall consider guidelines ~~[previously]~~ developed and presented by the advisory committee on *community supervision and corrections* ~~[probation]~~ department management to the *judicial advisory council established under Section 493.003(b), Government Code [Texas Adult Probation Commission]*.

(c) After consultation with the Texas Commission on Alcohol and Drug Abuse, the division by rule shall establish standards for the operation of substance abuse facilities and programs by the division and by departments. A facility or program operating under the standards is not required to be licensed or otherwise approved by any other state or local agency.

Sec. 3. RECORDS, REPORTS, AND INFORMATION SYSTEMS. (a) The division shall require each department to:

(1) keep financial and statistical records determined necessary by the division;

(2) submit a community justice plan *and all supporting information requested by the division*; ~~[, if Section 3 of Article 42.131 of this code applies to the department; and]~~

(3) *present data requested by the division as necessary to determine the amount of state aid for which the department is eligible; and*

(4) submit periodic financial audits and statistical reports to the division.

(b) The division shall develop an automated ~~[probationer]~~ tracking system that:

(1) is capable of receiving tracking data from community supervision and corrections departments' caseload management and accounting systems;

(2) is capable of tracking the *defendant* ~~[probationer]~~ and the *sentencing event at [conviction for]* which the *defendant was placed on community supervision* ~~[probationer received probation]~~ by name, arrest charge code, and incident number;

(3) provides the division with the statistical data it needs to support budget requests and satisfy requests for information; and

(4) is compatible with the requirements of Chapter 60 of this code and the information systems used by the institutional division and *the pardons and paroles* ~~[Board of Pardons and Paroles]~~ division of the department.

Sec. 4. INSPECTIONS; AUDITS; EVALUATIONS. (a) The division may inspect and evaluate a department or conduct audits of financial records of a department at any reasonable time to determine compliance with the division's rules and standards.

*(b) The division shall authorize payments under Section 10(a)(1) of this article only if the division determines that the department has made a reasonable effort to maintain workloads established by the division for supervising officers that do not exceed the following ratios:*

*(1) one officer or full-time equivalent per 25 cases, with a workload unit value of 4 per case;*

*(2) one officer or full-time equivalent per 40 cases, with a workload unit value of 2.5 per case;*

*(3) one officer or full-time equivalent per 75 cases, with a workload unit value of 1.33 per case; and*

*(4) one officer or full-time equivalent per 100 cases, with a workload unit value of 1 per case.*

Sec. 5. COMMUNITY CORRECTIONS FACILITIES. (a) In order to establish and maintain community corrections facilities, the division may:

(1) ~~[develop standards for the physical plant and operation of community corrections facilities and standards for the programs offered by those facilities;~~

~~[(2)] fund division-managed [community corrections] facilities [if local contractors are not available or do not meet the standards established by the division];~~

(2) ~~[(3)]~~ fund contracts for ~~[management of community corrections]~~ facilities *that are managed by departments, counties, or vendors;*

(3) ~~[(4)]~~ provide funds to departments for the renovation of leased or donated buildings for use as ~~[community corrections]~~ facilities;

(4) ~~[(5)]~~ accept ownership of real property pursuant to an agreement under which the division agrees to construct a ~~[community corrections]~~ facility and offer the facility for lease;

(5) ~~[(6)]~~ allow departments, counties, or municipalities to accept and use buildings provided by units of local governments, including rural hospital districts, for use as ~~[community corrections]~~ facilities;

(6) ~~[(7)]~~ provide funds to departments, counties, or municipalities to lease, *purchase, or construct buildings or to lease or purchase[,] land[,] or other real property for use as* ~~[community corrections]~~ facilities, lease or purchase equipment necessary for the operation of facilities, and pay other costs as necessary for the management and operation of facilities; *and*

~~[(8)] require that all community corrections facilities be in compliance with state and local safety laws;~~

~~[(9)] develop standards for disciplinary rules to be imposed on residents of community corrections facilities;~~

~~[(10)] require departments to provide data requested by the division;]~~

(7) ~~[(11)]~~ be a party to a contract for correctional services or approve a contract for those services if the state, on a biennial appropriations basis, commits to fund a portion of the contract~~[-and~~

~~[(12)] develop standards for the granting of emergency furloughs for residents confined in community corrections facilities].~~

(b) *The division may require that community corrections facilities comply with state and local safety laws and may develop standards for:*

*(1) the physical plant and operation of community corrections facilities;*

*(2) programs offered by community corrections facilities;*

*(3) disciplinary rules for residents of community corrections facilities; and*

*(4) emergency furloughs for residents of community corrections facilities.*

(c) Minimum standards for community corrections facilities must include requirements that a facility:

*(1) provide levels of security appropriate for the population served by the facility, including as a minimum a monitored and structured environment in which a resident's interior and exterior movements and activities can be supervised by specific destination and time; and*

*(2) accept only those residents who are physically and mentally capable of participating in any program offered at the facility that requires strenuous physical activity, if participation in the program is required of all residents of the facility.*

(d) *Standards developed by the division that relate to state jail felony facilities must meet minimum requirements adopted by the board for the operation of state jail felony facilities. The board may adopt rules and procedures for the operation of more than one type of state jail felony facility.*

(e) *With the consent of the department operating or contracting for the operation of the facility, the board may designate any community corrections facility that is an intermediate sanction facility as a state jail felony facility and confine state jail felons in that facility.*

Sec. 6. COMMUNITY JUSTICE PLAN. (a) ~~The [Beginning on September 1, 1991, the]~~ division shall require as a condition to payment of state aid to a department or county under Section 10 ~~[11 or Section 13]~~ of this article and eligibility for payment of costs under Section 499.124, Government Code, that a community justice plan be submitted for the department. The community justice council shall submit the plan required by this subsection. A community justice council may not submit a plan under this section unless the plan is first

approved by the district judges who manage the department served by the council. The council shall submit a revised plan to the division each *odd-numbered* year by a date designated by the division. *A plan may be amended at any time with the approval of the division.*

(b) A community justice plan required under this section must include:

~~(1) a summary of services provided by or available to the department at the time the plan is submitted;~~

~~(2) a description of proposed new facilities or programs or significant expansion of existing facilities or programs and a summary of how the department proposes to use the facilities or programs, with a particular emphasis on the plans of the department to expand the department's use of:~~

~~[(A) electronic monitoring programs;~~

~~[(B) testing for controlled substances; and~~

~~[(C) community corrections facilities, including:~~

~~[(i) restitution facilities;~~

~~[(ii) court residential treatment facilities;~~

~~[(iii) substance abuse treatment facilities;~~

~~[(iv) custody facilities and boot camps;~~

~~[(v) facilities for offenders described by Section 1, Article 4413(49a), Revised Statutes;~~

~~[(vi) intermediate sanction facilities;~~

~~[(vii) pre-parole transfer facilities;~~

~~[(viii) halfway houses; and~~

~~[(ix) work facilities;~~

~~(3) a description of services for offenders needed within the area served by the department, including services needed within an accessible radius of any facility or program that is proposed;~~

~~(4) a copy or description of any proposed contract that is required to achieve proposed facilities or programs; and~~

~~(5) a statement of goals and priorities and of commitment by the community justice council, the district judges who manage the department, and the department to achieve a targeted level of alternative sanctions;~~

~~(2) a description of methods for measuring the success of programs provided by the department or provided by an entity served by the department; and~~

~~(3) a proposal for the use of state jail felony facilities and, at the discretion of the community justice council, a regional proposal for the construction, operation, maintenance, or management of a state jail felony facility by a county, a community supervision and corrections department, or a private vendor under a contract with a county or a community supervision and corrections department.~~

~~(c) A community justice plan submitted to the division by a department or by departments acting in cooperation may include:~~

~~[(1) implementation processes for division-approved program evaluation and data collection;~~

~~[(2) a description of existing and proposed personnel training programs, community service programs, and restitution programs;~~

~~[(3) a description of existing and proposed programs to recruit volunteer community service programs to work with offenders served by the department; and~~

~~[(4) other details or options that the community justice council wishes to include.~~

~~(d) A community justice plan submitted under this section must include, in addition to the information required by Subsection (b) of this section, a budget and program schedule~~

~~detailing the application of state funding to the programs proposed in the plan and any other information required by the division.]~~

Sec. 7. OFFICER CERTIFICATION. (a) The division shall establish officer certification programs for department residential officers and department supervision officers. Each program must include coursework relating to the proper performance of the officer's duties and an examination prepared by the division administered at the conclusion of the coursework. The examination must test officers on knowledge required for the proper performance of their duties. Each officer who satisfactorily completes the coursework and examination shall be certified.

(b) Except as provided by Subsections (d), (e), and (f) of this section, a department may not continue to employ an officer unless the officer is exempt from certification requirements on the effective date of this Act or satisfactorily completes the coursework and examination required by this section not later than the first anniversary of the date on which the officer begins employment with the department.

(c) The division shall provide adequate notification of the results of examinations and provide other relevant information regarding examinations as requested by examinees.

(d) The division may extend the period for the coursework and examination requirements *for an officer under Subsection (b) or (f) of this section for an additional period not to exceed one year because:*

*(1) of a need by the department to increase hiring to reduce caseloads to a level necessary to receive full state aid; or*

*(2) an extenuating circumstance, as determined by the division director, prevents the officer from completing the coursework and examination within the required period [for officers employed by a department that during the initial one-year period increases hiring in order to reduce caseloads as required by law as a condition to full state funding].*

(e) The division may waive certification requirements other than a fee requirement for an applicant with a valid certificate from another state that has certification requirements substantially similar to those of this state.

(f) A department may not continue to employ a residential officer unless the officer successfully completes the coursework and examination requirement under this section before the first anniversary of the date on which the officer begins *the officer's assignment to a residential facility* ~~employment with the department~~. The division shall make the first certification coursework and examination required by this subsection available not later than September 1, 1990. *An officer who is assigned to a residential facility and who was [A residential officer]* employed by a department before September 1, 1990, is not required to successfully complete the examination before the first anniversary of the date the division makes the first examination available.

(g) The division may *deny*, revoke, or suspend a certification or *may* reprimand *an [a certified]* officer for a violation of this article or a rule of the Texas Board of Criminal Justice.

(h) If the division proposes to *deny*, ~~[suspend or]~~ revoke, or *suspend* an officer's certification or to *reprimand an officer* ~~[under this article]~~, the officer ~~[person]~~ is entitled to a hearing before the division or a hearings examiner appointed by the division. The division shall adopt procedures *for appeals by officers of decisions made by the division to deny, revoke, or suspend a certification or to reprimand an officer* ~~[by which decisions to suspend are made by or are appealable to the commission].~~

Sec. 8. TRAINING. The division may provide pre-service, in-service, and educational training and technical assistance to departments to promote compliance with the standards under this article and to assist departments in improving the operation of department services.

Sec. 9. ~~[DATA AND REPORTS FOR STATE AID. The director of a department shall present data requested by the division as necessary to determine the amount of state financial aid to which the department is entitled. A department receiving state aid shall submit reports as required by the division.]~~

~~[Sec. 10.]~~ PUBLIC MEETING. (a) The division may not take an action under Sections 5(a)(1) through (6) ~~[(2) through (7)]~~ of this article relating to a community corrections facility.

established after August 31, 1989, unless a public meeting is held about the proposed action before the action is taken.

(b) Before the 30th day before the date of the meeting, the division, the department that the facility is to serve, or a vendor proposing to operate the facility shall:

(1) publish notice of the date, hour, place, and subject of the hearing required by Subsection (a) of this section in three consecutive issues of a newspaper of, or in newspapers that collectively have, general circulation in the county in which the proposed facility is to be located; and

(2) mail a copy of the notice to each city council member, county commissioner, state representative, and state senator who represents the area in which the proposed facility is to be located, unless the proposed facility has been previously authorized to operate at a particular location by a community justice council under Section 3, Article 42.131, of this code.

(c) If a private vendor, other than a private vendor that operates as a nonprofit corporation, proposes to operate a facility that is the subject of a public meeting under this section, the private vendor is responsible for the costs of providing notice and holding the public meeting required by this section.

(d) In describing the subject of a hearing for purposes of publishing notice under this section, the notice must specifically state the address of the facility on which a proposed action is to be taken and describe the proposed action.

(e) The division, *a department, or a private vendor* shall hold a public meeting required by Subsection (a) of this section ~~[in the county in which the facility on which a proposed action is to be taken is located,]~~ at a site as close as practicable to the *location at which the proposed action is to be taken* ~~[facility]~~.

(f) *A department, a county, a municipality, or a combination involving more than one of those entities may not take an action under Section 10, Article 42.131, of this code unless the community justice council serving the entity or entities holds a public meeting before the action is taken, with notice provided and the hearing to be held in the same manner as provided by Subsections (a) through (e) of this section.*

Sec. 10 [11]. PAYMENT OF STATE AID. (a) If the division determines that a department complies with division standards and if the department or judges managing the department have submitted a community justice plan under Section 3, Article 42.131 of this code and the supporting information required by *the division* ~~[this article]~~ and the division determines the plan *and supporting information are* ~~[is]~~ acceptable, the division shall prepare and submit to the comptroller of public accounts vouchers for payment to the department as follows:

(1) *for per capita funding, a per diem* ~~[an annual]~~ amount ~~[as provided in the General Appropriations Act]~~ for each ~~[full-time officer or each full-time equivalent employed by the department who supervises any combination of]~~ felony defendant *directly supervised by the department pursuant to lawful authority* ~~[probationers that results in a workload unit level that does not exceed 100, as determined under Subsection (c) of this section];~~

(2) *for per capita funding, a per diem amount for a period not to exceed 182 days* ~~[as provided in the General Appropriations Act]~~ for each defendant ~~[misdemeanor probationer]~~ supervised by the department *pursuant to lawful authority*, other than a felony defendant ~~[misdemeanor probationer under supervision after the first anniversary of the date on which the probationer was placed on probation]; and~~

(3) *for formula funding, an annual amount as computed by multiplying a* ~~[the]~~ percentage *determined by the allocation formula established under Section 499.071(b), Government Code* ~~[of institutional admissions allocated to the county or counties served by the department under Article 6166a-4, Revised Statutes]~~, times the total amount provided in the General Appropriations Act for payments under this subdivision.

(b) The division may use discretionary grant funds to further the purposes of this chapter by contracting for services with state agencies or nonprofit organizations. The division may also make discretionary grants to departments, municipalities, or counties for the following purposes:

- (1) development *and operation* of pretrial and presentencing services;
  - (2) electronic monitoring *services* [programs], surveillance *supervision* [probation] programs, and controlled substances testing *services* [programs];
  - (3) research projects to evaluate the effectiveness of community corrections programs, if the research is conducted in cooperation with the Criminal Justice Policy Council;
  - (4) contract services for felony *defendants* [probationers];
  - (5) residential services for misdemeanor *defendants* [probationers] who exhibit levels of risk or needs indicating a need for confinement and treatment, as described by *Section 4(b) of this article* [Subsection (d) of this section];
  - (6) establishment or operation of county correctional centers under Subchapter H, Chapter 351, Local Government Code, or community corrections facilities for which the division has established standards under Section 5 of this article[, subject to payment methods established under Subsection (e) of this section]; and
  - (7) other purposes determined appropriate by the division and approved by the board.
- (c) ~~The division shall authorize payments under Subsection (a)(1) of this section only if the division determines that the department has made a reasonable effort to maintain workloads for supervising officers that do not exceed the following ratios:~~
- ~~[(1) one officer or full-time equivalent per 25 cases, with a workload unit value of 4 per case, for cases requiring intensive supervision;~~
  - ~~[(2) one officer or full-time equivalent per 40 cases, with a workload unit value of 2.5 per case, for cases requiring maximum supervision;~~
  - ~~[(3) one officer or full-time equivalent per 75 cases, with a workload unit value of 1.33 per case, for cases requiring a medium level of supervision, and~~
  - ~~[(4) one officer or full-time equivalent per 100 cases, with a workload unit value of 1 per case, for cases requiring a minimum level of supervision.~~
- ~~[(d) The division annually shall evaluate its grant payments for facilities described by Section 5 of this article by applying risk assessment instruments developed by the division to determine whether persons confined exhibit levels of risk or needs that if not addressed through the confinement and treatment in a community corrections facility make it probable that the persons would pose unacceptable levels of threat to public safety through additional criminal behavior. The division shall develop risk assessment instruments for use under this section not later than September 1, 1990.~~
- ~~[(e) The division may fund community corrections facilities for which standards have been established under Section 5 of this article:~~
- ~~[(1) on a grant basis;~~
  - ~~[(2) on a per diem basis per person confined; or~~
  - ~~[(3) by a combination of the grant and per diem basis.~~
- ~~[(f) The division may make payments under Subsection (c)(2) or (c)(3) of this section only from the residential services component of state aid established in the General Appropriations Act.~~
- ~~[(g)] Each department, county, or municipality shall deposit all state aid received from the division [under this article] in a special fund of the county treasury or municipal treasury, as appropriate, to be used solely for the provision of services, programs, and facilities under this article or Subchapter H, Chapter 351, Local Government Code.~~
- (d) The division shall provide state aid to each department on a biennial basis, pursuant to the community justice plan for the biennium submitted by the department. A department with prior division approval may transfer funds from one program or function to another program or function.*
- (e) In establishing per diem payments authorized by Subsections (a)(1) and (a)(2) of this section, the division shall consider the amounts appropriated in the General Appropriations Act for basic supervision as sufficient to provide basic supervision in each year of the fiscal biennium.*

~~Sec. 11 [12]. REFUSAL OR SUSPENSION OF STATE AID. (a) [The division shall adjust grant funding for facilities on the basis of annual evaluations made by the division under Section 11(d) of this article.~~

~~[(b)] The division shall take one or more of the following actions against a department that the division determines is not in substantial compliance with division standards or requirements adopted under Sections 2 through 5 of this article:~~

- ~~(1) a reduction, refusal, or suspension of payment of state aid to the department; or~~
- ~~(2) an imposition of budget control over the department.~~

~~(b) [(c)] The board shall provide for notice and a hearing in cases in which the division proposes to take an action authorized by this section. The division shall define with specificity the conduct that constitutes substantial noncompliance with division standards and shall establish the procedures to be used in imposing or waiving a sanction authorized by this section, subject to approval of the definition and the procedures by adoption by the board.~~

~~[Sec. 13. PRETRIAL RELEASE REPORT. The Community Justice Assistance Division shall collect statistical information on the use of bail bonds, personal bonds and other types of pretrial release in each county of the state. The information shall be collected on an annual basis and analyzed to determine the utilization rate for each type of release method. The Division shall file a report of its findings with the Criminal Justice Division of the Governor's Office, the Lieutenant Governor, the Speaker of the House of Representatives, and the members of the Legislature not later than December 31 of each year.~~

~~[Sec. 13. PERFORMANCE REWARDS. (a) The board shall develop, adopt, and implement a performance rewards program to reward each county served by a department that successfully diverts offenders from confinement. In developing the program, the board shall consider relevant factors for each county served by a department. The factors shall include but are not limited to:~~

- ~~[(1) the personal bond utilization rate in the county;~~
- ~~[(2) the pretrial diversion rate in the county;~~
- ~~[(3) the deferred adjudication rate in the county;~~
- ~~[(4) the probation rate in the county;~~
- ~~[(5) the probation revocation rate in the county, with separate rates calculated for revocations based on technical grounds and revocations based on grounds other than technical;~~
- ~~[(6) the utilization rate of residential and nonresidential diversion programs in the county;~~
- ~~[(7) the institutional division commitment rate in the county;~~
- ~~[(8) the admission per index crimes rate in the county; and~~
- ~~[(9) the frequency with which and extent to which the county does not use all admissions to which the county is entitled under the allocation formula.~~

~~[(b) On January 1 of each year, the division shall make the first of four quarterly payments to a county served by a department, other than a county described by Subsection (d) of this section, on the basis of the performance record of the county during the previous state fiscal year in diverting offenders from confinement, as documented by information requested by the division and provided by the department serving the county. If a county qualifies for a reward under Subsection (a) of this section, the minimum amount that the county is entitled to receive during a state fiscal year is \$50,000. Each department shall provide the information for each county served by the department in a format designed by the division, and each county participating in the performance rewards program shall provide a plan, including a budget schedule, indicating to the division the manner in which the payment is to be used for each of the purposes described by Subsection (c) of this section. The division may reject the plan, accept the plan, or make acceptance of the plan conditional on modification of the plan and monitoring of the plan by the division.~~

~~[(c) A county that receives a payment under this section shall use not less than 25 percent of the payment for substance abuse prevention and treatment programs and may use the remainder of the payment for:~~

- ~~[(1) any purposes for which state aid may be used under Section 11(b) of this article;~~  
~~[(2) implementation of the community justice plan for that county; or~~  
~~[(3) any program serving the criminal justice needs in the county, including certified programs for youthful offenders.~~
- ~~[(d) The director of the institutional division shall notify the director of the community justice assistance division if a county fails to fully cooperate with employees of the institutional division who are evaluating inmates who are candidates for release on parole from the county jail. The director of the community justice assistance division may not make a payment under this section to the county described by this subsection. For the purposes of this subsection, a county fails to fully cooperate with employees of the institutional division if the county does not:~~
- ~~[(1) refer candidates for release on parole from jail in the manner required under guidelines established by the board;~~  
~~[(2) provide for each candidate a certified packet containing all documents the county would otherwise have been required to deliver to the director of the institutional division under Section 8, Article 42.09 of this code, plus three photographs and three fingerprint cards;~~  
~~[(3) hold candidates until the candidates are denied parole or released on parole, unless to do so would mean the county failed to use all admissions allocated to the county under Section 499.071, Government Code; or~~  
~~[(4) permit the employees access to inmates or inmate records or does not provide the employees with sufficient space to conduct their evaluations.~~
- ~~[(e) The community justice assistance division annually shall determine for each county whether the county has a successful personal bond utilization rate in the county and a successful pretrial diversion program. The division shall report its findings to the Legislative Criminal Justice Board not later than December 31 of each year.]~~

SECTION 2.02. Article 42.131, Code of Criminal Procedure, is amended to read as follows:

**Art. 42.131. COMMUNITY SUPERVISION AND CORRECTIONS DEPARTMENTS**

**Sec. 1. DEFINITIONS.** In this article:

- (1) "Board" means the Texas Board of Criminal Justice.
- (2) "Community supervision" has the meaning assigned by Section 2, Article 42.12, of this code.
- (3) "Council" means a community justice council.
- (4) [(3)] "Department" means a community supervision and corrections department established under this article.
- (5) [(4)] "Division" means the community justice assistance division of the board.

**Sec. 2. ESTABLISHMENT OF DEPARTMENTS.** (a) The district judge or district judges trying criminal cases in each judicial district in the state shall establish a community supervision and corrections department and employ district personnel as may be necessary to conduct presentence investigations [and risk assessments], supervise and rehabilitate *defendants placed on community supervision* [probationers], enforce the [terms and] conditions of *community supervision* [probation], and staff community corrections facilities. Both the district judges trying criminal cases and the judges of statutory county courts trying criminal cases that are served by a community supervision and corrections department are entitled to participate in the management of the department.

(b) If two or more judicial districts serve a county, or a district includes more than one county, one department shall serve all courts and counties in the district. However, the board may adopt rules to allow more than one department in a judicial district that includes more than one county if providing more than one department will promote administrative convenience or economy or improve services. The board may adopt rules allowing departments to contract with one another for services and facilities.



Sec. 3. ~~[COMMUNITY CORRECTIONS FACILITIES;]~~ COMMUNITY JUSTICE COUNCIL. (a) ~~(Subject to Subsection (b) of this section, a department, county, municipality, or any combination involving more than one of those entities may establish community corrections facilities of the types described by Section 5, Article 42.13, of this code. A department, county, municipality, or combination involving more than one of those entities is specifically encouraged to purchase or enter into contracts for the use of abandoned or underutilized public facilities, such as rural hospitals, for the purpose of providing treatment facilities. The division may make grants to departments that use abandoned or underutilized facilities described by this subsection.~~

~~[(b)]~~ A community justice council must be established by the district judge or judges in each jurisdiction served by a department, unless a board or council exists in the community on September 1, 1991, that performs duties substantially similar to those imposed on a community justice council under this section. The council shall provide continuing policy guidance and direction for the development of *community* ~~[criminal]~~ justice plans and community corrections facilities and programs. A council should consist of the following persons or their designees:

(1) a sheriff of a county to be served by the department, chosen by the sheriffs of the counties to be served by the department;

(2) a county commissioner or a county judge from a county to be served by the department, chosen by the county commissioners and county judges of the counties to be served by the department;

(3) a city council member of the most populous municipality in a county to be served by the department, chosen by the members of the city councils of cities to be served by the department;

(4) not more than two state legislators elected from a county to be served by the department, chosen by the state legislators elected from the counties to be served by the department;

(5) the presiding judge from a judicial district to be served by the department, chosen by the district judges from the judicial districts to be served by the department;

(6) a judge of a statutory county court exercising criminal jurisdiction in a county to be served by the department, to be chosen by the judges of statutory county courts with criminal jurisdiction in the counties to be served by the department;

(7) a county attorney with criminal jurisdiction from a county to be served by the department, chosen by the county attorneys with criminal jurisdiction from the counties to be served by the department;

(8) a district attorney or criminal district attorney from a judicial district to be served by the department, chosen by the district attorneys or criminal district attorneys from the judicial districts to be served by the department; and

(9) an elected member of the board of trustees of an independent school district in a county to be served by the department, chosen by the members of the boards of trustees of independent school districts located in counties to be served by the department.

~~(b)~~ ~~[(c)]~~ The community justice council shall appoint a community justice task force to provide support staff for the development of a community justice plan. The task force may consist of any number of members, but should include:

(1) the county or regional director of the Texas Department of Human Services with responsibility for the area to be served by the department;

(2) the chief of police of the most populous municipality to be served by the department;

(3) the chief juvenile probation officer of the juvenile probation office serving the most populous area to be served by the department;

(4) the superintendent of the most populous school district to be served by the department;

(5) the supervisor of the Department of Public Safety region closest to the department, or the supervisor's designee;

(6) the county or regional director of the Texas Department of Mental Health and Mental Retardation with responsibility for the area to be served by the department;

(7) a substance abuse treatment professional appointed by the Council of Governments serving the area to be served by the department;

(8) the department *director* [chief];

(9) the local or regional representative of the *pardons and paroles division of the Texas Department of Criminal Justice* [Board of Pardons and Paroles Division] with responsibility for the area to be served by the department;

(10) the representative of the Texas Employment Commission with responsibility for the area to be served by the department;

(11) the representative of the Texas Rehabilitation Commission with responsibility for the area to be served by the department;

(12) a licensed attorney who practices in the area to be served by the department and whose practice consists primarily of criminal law;

(13) a court administrator, if one serves the area to be served by the department;

(14) a representative of a community service organization that provides *adult treatment, educational, or vocational* services to the area to be served by the department; and

(15) a representative of an organization in the area to be served by the department that is actively involved in issues relating to defendants' rights, chosen by the county commissioners and county judges of the counties to be served by the department.

Sec. 4. DEPARTMENT DIRECTOR. The *district judge or judges* shall appoint a department director *who must meet, at a minimum, the eligibility requirements for officers established under Section 5 of this article*. The department director shall employ a sufficient number of officers and other employees to perform the professional and clerical work of the department.

Sec. 5. STANDARDS FOR OFFICERS. (a) Officers appointed by the department director must comply with a code of ethics developed by the division.

(b) To be eligible for appointment on or after *September 1, 1989*, [the effective date of this Act] as an officer who supervises *defendants placed on community supervision* [probationers] a person:

(1) must have acquired a bachelor's degree conferred by an institution of higher education accredited by an accrediting organization recognized by the Texas Higher Education Coordinating Board; and

(2) unless the bachelor's degree is in criminology, corrections, counseling, law, social work, psychology, sociology, or a related field that has been approved by the division, must have:

(A) one year of graduate study in one of those fields; or

(B) one year of experience in full-time casework, counseling, or community or group work that has been approved by the division.

(c) A person employed as a peace officer is not eligible for appointment as an officer under this section.

(d) The division may establish a waiver procedure for departments unable to hire persons meeting the requirements under Subsection (b)(2) of this section.

Sec. 6. EMPLOYEES; BENEFITS. (a) Except as provided by Subsection (c) of this section, department employees are not state employees. The department shall contract with the most populous county served by the department for insurance and retirement plans, and the employees are governed by *personnel policies and benefits equal to* [the same] personnel policies *for and benefits of other* [as the] employees of that county.

(b) The judicial districts served by a department shall pay the salaries of department employees.

(c) Department employees are state employees for the purposes of Chapter 104, Civil Practice and Remedies Code, and Article 8309g, Revised Statutes. *A department is a governmental unit for the purposes of Section 101.103(a), Civil Practice and Remedies Code.*

(d) The department shall provide transportation or automobile allowances for officers who supervise probationers.

Sec. 7. **PUBLIC FUNDS** [~~STATE AID~~], GRANTS, GIFTS. A department may accept *public funds* [~~state aid~~] and grants and gifts from any source for the purpose of financing programs and facilities. A municipality, *county, or other political subdivision* may make grants to a department for those purposes.

Sec. 8. **COUNTIES' FINANCIAL RESPONSIBILITIES.** (a) The county or counties served by a department shall provide physical facilities, equipment, and utilities for a department. The division shall monitor the support a county provides under this section and determine whether a county provides support that meets the standards for minimum support established by the division. If the division determines that a county's support is insufficient, the division may impose on the department a sanction authorized by Section 11 [12], Article 42.13, of this code.

(b) If a department serves two or more counties, those counties may enter into an agreement for the distribution of the expenses of facilities, equipment, and utilities.

Sec. 9. **DISTRICTS' FINANCIAL RESPONSIBILITIES.** (a) The district judge or judges may expend district funds in order to provide expanded facilities, equipment, and utilities if:

(1) the department needs to increase its personnel in order to provide more effective services or to meet workload requirements established under Article 42.13 of this code;

(2) the county or counties certify to the judge or judges that they have neither adequate space in county-owned buildings nor adequate funds to lease additional physical facilities, purchase additional equipment, or pay for additional utilities required by the department; and

(3) the county or counties provide facilities, equipment, and utilities at or above the levels required by the division.

(b) The division shall set as the level of contribution a county or counties must meet or exceed to receive district funds under Subsection (a) of this section a level not lower than the average level provided by the county or counties during the *fiscal year in which the funds are to be received and the four fiscal years immediately preceding that year* [~~fiscal years of 1983-87~~].

Sec. 10. **STATE FUNDS OR GUARANTEES FOR CORRECTIONS FACILITIES.** (a) *In this section:*

(1) "*Community corrections facility*" has the meaning assigned by Section 1(b), Article 42.13, of this code.

(2) "*State jail felony facility*" means a facility operated or contracted for by the state jail division under Subchapter A, Chapter 507, Government Code.

(b) A department, county, municipality, or a combination involving more than one of those entities may establish a community corrections facility and are specifically encouraged to purchase or enter into a contract for the use of abandoned or underutilized public facilities, such as former military bases and rural hospitals, for the purpose of providing community corrections facilities.

(c) The district judge or judges may authorize expenditures of funds provided by the division to the department for the purposes of providing facilities, equipment, and utilities for community corrections facilities or state jail felony facilities if:

(1) the community justice council recommends the expenditures; and

(2) the division, or the state jail division in the case of a state jail felony facility, provides funds for the purpose of assisting in the establishment or improvement of the facilities.

(d) A department may acquire, hold title to, and own real property for the purpose of establishing a community corrections facility or a state jail felony facility.

(e) A department, county, municipality, or a combination involving more than one of those entities may not use a facility or real property purchased, acquired, or improved with

state funds unless the division, or the state jail division in the case of a state jail felony facility, first approves the use.

(f) The division or the state jail division, in the case of a state jail felony facility, is entitled to reimbursement from an entity described by Subsection (e) of this section of all state funds used by the entity without division approval as required by Subsection (e) of this section.

**Sec. 11. PRETRIAL SERVICES.** (a) The department may operate programs for the supervision and rehabilitation of persons in pretrial intervention programs. Programs may include testing for controlled substances. Persons in pretrial intervention programs may be supervised for a period not to exceed one year.

(b) The department may use money deposited in the special fund of the county treasury for the department under Article 103.004(b) of this code only for the same purposes for which state aid may be used under this article.

**Sec. 12. RESTITUTION.** (a) If a judge requires a defendant to make restitution to a victim of the defendant's offense, and a payment is received under this article from the defendant for transmittal to a victim of the offense, the community supervision and corrections department that receives the payment for disbursement to the victim shall immediately deposit the payment in an interest-bearing account in the department having original jurisdiction. The department shall transmit the payment to the victim as soon as practicable.

(b) If a victim cannot be located, immediately after receiving a final payment in satisfaction of an order of restitution for the victim the department shall attempt to notify the victim of that fact by certified mail, mailed to the last known address of the victim. If a victim then makes a claim for payment, the department promptly shall remit the payment to the victim. Not earlier than the fifth anniversary of the date on which the department mails notice under this subsection, if the victim has not made a claim for payment, the department shall transfer the payment from the interest-bearing account to the comptroller of public accounts, after deducting five percent of the payment as a collection fee and deducting any interest accrued on the payment. The comptroller shall deposit the payment in the state treasury to the credit of the compensation to victims of crime auxiliary fund.

(c) The collection fee under Subsection (b) of this section and the accrued interest under Subsections (a) and (b) of this section shall be deposited in the special fund of the county treasury provided by Section 10, Article 42.13, of this code to be used for the same purposes for which state aid may be used under that section. The department has a maximum of 121 days after the four-year expiration date to transfer the funds to the comptroller's office. Failure to comply with the 121-day deadline will result in a five percent collection fee penalty calculated from the total deposit and all interest attributable to the unclaimed funds.

(d) If the victim of the offense claims the payment during the four-year period in which the payment is held in the interest-bearing account, the department shall pay the victim the amount of the original payment, less any interest earned while holding the payment. After the payment has been transferred to the comptroller, the department has no liability in regard to the payment, and any claim for the payment must be made to the comptroller. If the victim makes a claim to the comptroller, the comptroller shall pay the victim the amount of the original payment, less the collection fee, from the compensation to victims of crime auxiliary fund.

**Sec. 13. PROGRAM TO ASSESS AND ENHANCE DEFENDANT'S EDUCATIONAL AND VOCATIONAL SKILLS.** (a) A department, with the assistance of public school districts, community and public junior colleges, public and private institutions of higher education, and other appropriate public and private entities, may establish a developmental program for a defendant under the supervision of the department on the basis of information obtained in the presentence investigation report prepared for the defendant.

(b) The developmental program may provide the defendant with the educational and vocational training necessary to:

- (1) meet the average skill level of students who have completed the sixth grade in public schools in this state; and

*(2) maintain employment while under the supervision of the department, to lessen the likelihood that the defendant will commit additional offenses.*

*(c) To decrease expenditures by community supervision and corrections departments for the educational and vocational skills assessment and enhancement program established under this section, the Texas Department of Commerce shall provide information to departments, public school districts, community and public junior colleges, public and private institutions of higher education, and other appropriate public and private entities for obtaining financial assistance through the Texas Job-Training Partnership Act (Article 4419(52), Vernon's Texas Civil Statutes) and other applicable programs of public or private entities.*

SECTION 2.03. (a) Section 493.003(b), Government Code, is amended to read as follows:

(b) The chief justice of the Supreme Court of Texas and the presiding judge of the Texas Court of Criminal Appeals shall each appoint six members to serve as the judicial advisory council to the community justice assistance division and the board. The advisory council members serve *staggered six-year terms, with the terms of four of the members expiring February 1 of each odd-numbered year. In the event of a vacancy during a term, the appointing authority for the member who vacated the office shall appoint a replacement to fill the unexpired portion of the term [at the will of the appointing judge].* The advisory council shall advise the director of the community justice assistance division and the board on matters of interest to the judiciary, and the director and the board shall carefully consider the advice. Members of the advisory council are not entitled to compensation but are entitled to reimbursement for actual and necessary expenses in the conduct of their duties, as provided by the General Appropriations Act.

(b) The change in the terms of the members of the judicial advisory council to the community justice assistance division of the Texas Department of Criminal Justice and the Texas Board of Criminal Justice, as required by the amendment to Section 493.003(b), Government Code, made by Subsection (a) of this section, shall occur in the manner provided by this subsection. The chief justice of the Supreme Court of Texas and the presiding judge of the Texas Court of Criminal Appeals shall appoint the initial members of the six-year term advisory council on or before January 1, 1994, and on the date of appointment the terms of the members serving at-will terms expire. Of the members, the chief justice and the presiding judge each shall appoint four to serve terms expiring February 1, 1995, four to serve terms expiring September 1, 1997, and four to serve terms expiring September 1, 1999. On expiration of those terms, the term of a member is six years, as provided by Section 493.003(b).

SECTION 2.04. (a) Subsections (a) and (d), Article 102.011, Code of Criminal Procedure, are amended to read as follows:

(a) A defendant convicted of a *felony or a misdemeanor* shall pay the following fees for services performed in the case by a peace officer:

(1) \$5 for issuing a written notice to appear in court following the defendant's violation of a traffic law, municipal ordinance, or penal law of this state, or for making an arrest without a warrant;

(2) \$35 for executing or processing an issued arrest warrant or *capias*, with the fee imposed for the services of:

(A) the law enforcement agency that executed the arrest warrant or *capias*, if the agency requests of the court, not later than the 15th day after the date of the execution of the arrest warrant or *capias*, the imposition of the fee on conviction; or

(B) the law enforcement agency that processed the arrest warrant or *capias*, if the executing law enforcement agency failed to request the fee within the period required by Paragraph (A) of this subdivision;

(3) \$5 for summoning a witness;

(4) \$35 for serving a writ not otherwise listed in this article;

(5) \$10 for taking and approving a bond and, if necessary, returning the bond to the courthouse;

(6) \$5 for commitment or release;

(7) \$5 for summoning a jury, if a jury is summoned; and

(8) \$8 for each day's attendance of a prisoner in a habeas corpus case if the prisoner has been remanded to custody or held to bail.

(d) A defendant shall pay for the services of a sheriff or constable who serves process and attends an examining trial in a *felony or a misdemeanor* case the same fees allowed for those services in the trial of a *felony or a misdemeanor*, not to exceed \$5.

(b) The change in law made by Subsection (a) of this section to Article 102.011, Code of Criminal Procedure, applies only to a service performed in a felony case on or after the effective date of this article.

SECTION 2.05. Article 103.009, Code of Criminal Procedure, is amended to read as follows:

Art. 103.009. FEE RECORDS [BOOKS]. (a) Each clerk of a court, county judge, justice of the peace, sheriff, constable, and marshal shall keep a fee record [book]. The record [fee book] must contain:

(1) a statement of each fee or item of cost charged for a service rendered in a criminal action or proceeding;

(2) the number and style of the action or proceeding; and

(3) the name of the officer or person who is entitled to receive the fee.

(b) Any person may inspect a fee record [book] described by Subsection (a).

(c) A statement of an item of cost in a fee record [book] is prima facie evidence of the correctness of the statement.

(d) The county shall provide [fee-books] to officers required to keep a fee record [the books] by this article *equipment and supplies necessary to keep the record*.

SECTION 2.06. This article takes effect September 1, 1993.

### ARTICLE 3

SECTION 3.01. Section 493.009, Government Code, is amended to read as follows:

Sec. 493.009. SUBSTANCE ABUSE FELONY PUNISHMENT FACILITIES. (a) The department, [~~through the community justice assistance division and the pardons and paroles division and~~] with the cooperation of the Texas Commission on Alcohol and Drug Abuse, shall establish a program to confine and treat defendants *required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure* [~~punished under Section 12.422, Penal Code~~].

(b) *The board shall adopt criteria to determine the suitability of candidates for participation in the program.* The department and the Texas Commission on Alcohol and Drug Abuse shall jointly develop methods of screening and assessing defendants *required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure* [~~inmates sentenced under Section 12.422, Penal Code~~], to determine their need for specific types of treatment for alcohol or drug abuse problems.

(c) The program for persons *required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure* [~~sentenced under Section 12.422, Penal Code~~], must consist of treatment programs that may vary in time from six months to 12 months. The department shall also establish and provide treatment programs for persons in categories described by Subsections (g)(1)–(3) who are housed in beds otherwise provided for persons *required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure* [~~sentenced under Section 12.422, Penal Code~~].

(d) The program for persons *required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure* [~~sentenced under Section 12.422, Penal Code~~], provided under this section must contain highly structured work, education, and treatment schedules, a clearly delineated authority structure, and well-defined goals and guidelines. The department shall establish a graded system of rewards and sanctions for defendants [~~inmates~~] who participate in the program, but a defendant *required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure* [~~sentenced under Section 12.422, Penal Code~~], is not entitled to earn awards of time for good conduct. A

qualified professional, at least every 60 days, must perform an evaluation on a defendant[, ~~other than a defendant whose underlying offense is an offense under Article 67011-1, Revised Statutes,~~] that determines the defendant's treatment progress and institutional behavior. ~~[The professional must perform the evaluation on a defendant whose underlying offense is an offense under Article 67011-1, Revised Statutes, at least every 28 days.]~~ Not later than three days after the date on which a four-month evaluation is performed, ~~[or in the case of a defendant whose underlying offense is an offense under Article 67011-1, Revised Statutes, three days after the date on which a 28-day evaluation is performed,]~~ the qualified professional shall establish a tentative release date for the defendant, notify the sentencing court of that fact, and include with the notice a copy of the four-month ~~[or 28-day]~~ evaluation[, ~~as appropriate~~]. The qualified professional immediately shall notify the court if the professional determines the defendant's conduct requires a revision of the tentative release date.

(e) The department shall contract through the Texas Commission on Alcohol and Drug Abuse with ~~[nonprofit]~~ organizations to provide qualified professionals to implement the program for persons *required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure* ~~[sentenced under Section 12.422, Penal Code]~~. For purposes of this subsection, a "qualified professional" is a person who:

- (1) is a certified alcohol and drug abuse counselor;
- (2) is a certified social worker or advanced clinical practitioner and who has at least two years of experience in chemical dependency counseling; or
- (3) is a licensed professional counselor, physician, or psychologist and who has at least two years of experience in chemical dependency counseling.

~~(f)(1) The department shall adopt rules of conduct [for inmates participating in the program] for persons required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure, or required to participate in the program following modification of probation or parole [sentenced under Section 12.422, Penal Code].~~

~~(2) If the qualified professional with primary responsibility for treating a defendant and the individual in charge of security in the facility in which the defendant is housed jointly determine that the defendant is not complying with the rules or is medically or psychologically unsuitable for the program, they shall notify the department of that fact.~~

~~(3) The department, immediately on receiving notice, shall request the sentencing court to reassume custody of the defendant if the defendant was required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure, or required to participate in the program following modification of probation. The court shall reassume custody before the 12th day after the date on which the department notifies the court. If the court revokes the defendant's probation, the admission of the defendant to the institutional division is an admission for which the county from which the defendant was sentenced is charged under the allocation formula established under Section 499.071.~~

~~(4) The department, immediately on receiving notice, shall request the pardons and paroles division to reassume custody of the defendant if the defendant was required to participate in the program following modification of parole. The pardons and paroles division shall immediately take action in accordance with established policies and procedures of the Board of Pardons and Paroles to remove the defendant from the program. If a parole panel revokes the defendant's parole, the admission of the defendant to the institutional division is an admission for which the county from which the defendant was sentenced is charged under the allocation formula established under Section 499.071.~~

~~(5) If the defendant was transferred to the facility from a county jail under Subsection (1), the department shall return the defendant to the county jail.~~

~~(6) A court's recommendation that a defendant be placed in a program created under this section does not give the court the power to hold the department or any officer or employee of the department in contempt of court for failure to adhere to that recommendation.~~

(g) The department shall provide 12,000 beds for the purpose of operating the program for persons *required to participate in the program under Section 14, Article 42.12, Code of*

*Criminal Procedure* [sentenced under Section 12.422, Penal Code], except that the beds may also be used to house the following categories of persons:

(1) persons transferred under Subchapter A, Chapter 499, Government Code, and Section 8(i), Article 42.18, Code of Criminal Procedure;

(2) persons whose probation or parole has been modified [or revoked]; and

(3) *defendants* [inmates] confined in county jails awaiting transfer to the institutional division.

(h) On and after the date persons are *required under Section 14, Article 42.12, Code of Criminal Procedure* [sentenced under Section 12.422, Penal Code, to participate in the program established under this section], the department shall give priority to housing those persons over the categories of persons described by Subsections (g)(1)–(3).

(i) The department shall make quarterly reports to the Legislative Criminal Justice Board that show the ratio of persons in beds reserved under Subsection (g) who have been *required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure* [sentenced under Section 12.422, Penal Code], to persons in those beds who have been sent to the facilities by other methods.

(j) The department shall recover from a program participant the cost to the department of providing treatment, to the extent the participant has insurance that covers the treatment or is otherwise able to pay for the treatment.

(k) It is the intent of the legislature that facilities established under this section be used primarily to house persons *required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure* [sentenced under Section 12.422, Penal Code], except that if treatment beds are empty, this subsection does not prohibit the department from using those empty beds to treat the categories of persons listed in Subsection (g).

(l) The department shall identify *defendants* [inmates] confined in county jails who are awaiting transfer to the institutional division and who because of their need for treatment of drug or alcohol problems require transfer to a substance abuse felony punishment facility. The department shall *provide for the transportation of the defendant* [may order the county to transfer an inmate] to such a facility. If the board finds that a county has failed to fully cooperate with the department in evaluating *defendants* [and transferring inmates] under this section, the board shall notify the Commission on Jail Standards of that fact. On notice from the board, the commission may reduce or suspend payments under Subchapter F, Chapter 499, or may suspend the certification of the county jail as provided by Section 511.012.

(m) Notwithstanding any other provision of this section, the department is authorized to provide substance abuse felony punishment facilities, not to exceed 500 beds, for newly provided alcohol and drug abuse beds exclusively for persons whose probation or parole has been modified [or revoked].

(n) *The department shall separate participants in the program created under this section from inmates of the institutional division, except at times determined necessary by the department for the purpose of transportation or staging or for medical or security reasons.*

(o) *If a defendant required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure, is released after successful completion of the program, the Texas Commission on Alcohol and Drug Abuse shall contract for transportation of the participant at the expense of the commission to an appropriate continuum of care program.*

(p) *To the extent funds are available, the Criminal Justice Policy Council, with the assistance of the Texas Commission on Alcohol and Drug Abuse and the department, shall develop methods to evaluate the processes used by the department in providing the program and the level of success achieved by the program.*

SECTION 3.02. Section 501.0931, Government Code, is amended by amending Subsections (c), (d), (g), (h), and (j), and by adding Subsection (k) to read as follows:

(c) The program must consist of a [three-month-and-a-six-month] treatment program of *indeterminate length, not to exceed 12 months*. The institutional division shall make a referral of an inmate to a program based on the severity of the substance abuse problem, eligibility of the inmate, and the availability of treatment space. An inmate who has not more than 12 [six] months remaining in the inmate's sentence before the earliest date the inmate is



eligible for parole is eligible for the [three-month] program. ~~[An inmate who has not more than one year remaining in the inmate's sentence before the earliest date the inmate is eligible for parole is eligible for the six-month program.]~~

(d) The institutional division shall separate inmates ~~[who participate in the three-month program from inmates who participate in the six-month program and shall separate inmates]~~ participating in the program from the general population of the division and house the inmates in discrete units or areas within units, except during the diagnostic process or at other times determined to be necessary by the division for medical or security purposes. *The institutional division shall separate an inmate who successfully completes the program from the general population of the division during any period after completion and before the inmate is discharged or released on parole or mandatory supervision from the department.*

(g) The institutional division shall adopt:

(1) *a procedure for determining which eligible inmates are the best candidates for participation in the program, with priority for those eligible inmates who volunteer; and*

(2) *rules of conduct for inmates participating in the program.*

(h) ~~If the qualified professional implementing the program [institutional division] determines that an inmate is not complying with the rules of the program, the qualified professional shall notify the institutional division of that fact and the institutional division shall [may] end the inmate's participation in the program and transfer the inmate out of the program.~~

(j) ~~Neither the institutional division nor a qualified professional implementing the program may operate the program in a manner that automatically excludes inmates who do not volunteer to participate, and the division and the treatment provider shall attempt to encourage nonvolunteer inmates to participate [The department shall require an inmate who participates in a treatment program to participate in a drug or alcohol abuse after-care program as a condition of parole after the inmate is released from the institutional division].~~

(k) *If funding is available, the Criminal Justice Policy Council, with the assistance of the institutional division, shall develop methods to evaluate the processes used by the division in providing the program and the level of success achieved by the program.*

SECTION 3.03. Section 8, Article 42.18, Code of Criminal Procedure, is amended by amending Subsection (g) and adding Subsection (g-1) to read as follows:

(g) ~~The board [Texas Board of Criminal Justice] may adopt such other reasonable rules not inconsistent with law as it may deem proper or necessary with respect to the eligibility of prisoners for parole and mandatory supervision, the conduct of parole and mandatory supervision hearings, or conditions to be imposed upon parolees and persons released to mandatory supervision. Each person to be released on parole shall be furnished a contract setting forth in clear and intelligible language the conditions and rules of parole. The parole panel may include as a condition of parole or mandatory supervision any condition that a court may impose on a defendant placed on community supervision [probationer] under Article 42.12 of this code, including the condition that the person released submit to testing for controlled substances or submit to electronic monitoring if the parole panel determines that absent testing for controlled substances or participation in an electronic monitoring program the person would not be released on parole. Acceptance, signing, and execution of the contract by the inmate to be paroled shall be a precondition to release on parole. Persons released on mandatory supervision shall be furnished a written statement setting forth in clear and intelligible language the conditions and rules of mandatory supervision. The parole panel may also require as a condition of parole or release to mandatory supervision that the person make payments in satisfaction of damages the person is liable for under Section 500.002, Government Code [Article 6184p, Revised Statutes]. The parole panel shall require as a condition of parole or mandatory supervision that the person register under Article 6252-13c.1, Revised Statutes. The parole panel shall require as a condition of parole or mandatory supervision that an inmate who immediately before release is a participant in the program established under Section 501.0931, Government Code, participate in a drug or alcohol abuse continuum of care treatment program.~~

(g-1) *The Texas Commission on Alcohol and Drug Abuse shall develop the continuum of care treatment program.*

SECTION 3.04. This article takes effect September 1, 1993.

#### ARTICLE 4

SECTION 4.01. Section 499.0021(b), Government Code, is amended to read as follows:

(b) The pardons and paroles division may assume custody of an inmate who is eligible for transfer under this section not earlier than one year before the inmate's presumptive parole date. The inmate becomes a pre-parolee on the date the pardons and paroles division assumes custody, and the pardons and paroles division immediately shall transfer the pre-parolee to a facility under contract with the division, which may be a community residential facility, a community corrections facility listed in Section 1(b) [6(b)], Article 42.13, Code of Criminal Procedure, or a county correctional facility. A pre-parolee transferred under this section is considered to be in the actual physical custody of the pardons and paroles division.

SECTION 4.02. Section 499.003(d), Government Code, is amended to read as follows:

(d) The pardons and paroles division may request of a sheriff that the sheriff forward to the pardons and paroles division copies of any records possessed by the sheriff that are relevant to the pardons and paroles division in its determination as to whether to transfer a person from the county jail to a secure community residential facility, and the pardons and paroles division shall request the sheriff to forward to the institutional division and to the pardons and paroles division the information relating to the defendant the sheriff would be required under Section 8, Article 42.09, Code of Criminal Procedure, to deliver to the institutional division had the defendant been transferred to the institutional division. The pardons and paroles division shall determine whether the information forwarded by the sheriff contains a *thumbprint taken* [fingerprint] from the person *in the manner provided by Article 38.33, Code of Criminal Procedure*, and, if not, the pardons and paroles division shall obtain a *thumbprint in the manner provided by that article* [10-finger-print from the person, either by use of the ink-rolled print method or by use of a live-scanning device that prints the fingerprint on paper], and shall forward the *thumbprint* [10-finger-print] to the institutional division for inclusion with the information sent by the sheriff. The sheriff shall comply with a request from the pardons and paroles division made under this subsection.

SECTION 4.03. The section heading of Section 499.052, Government Code, is amended to read as follows:

Sec. 499.052. *STATE BOOT CAMP* [ALTERNATIVE INCARCERATION] PROGRAM [FOR PROBATIONERS].

SECTION 4.04. The subchapter heading of Subchapter D, Chapter 499, Government Code, is amended to read as follows:

#### SUBCHAPTER D. ALLOCATION FORMULAS [FORMULA]

SECTION 4.05. Section 499.071, Government Code, is amended to read as follows:

Sec. 499.071. ALLOCATION FORMULA. (a) The board shall [develop,] adopt[,] and enforce an allocation formula that fairly and equitably allocates to each county [or group of counties served by a community corrections and supervision department] the number of institutional division admissions allocated to the county [or counties] until sufficient capacity is available in the institutional division. In devising the formula, the board shall consider relevant factors for each county [or group of counties] served by a department and shall assign weights to those factors as determined appropriate by the board. The factors shall include but are not limited to:

(1) the percentage of prison admissions for the entire state that were used by the county [or counties] in the preceding 12 months;

(2) the percentage of the state's violent index crime that occurred in the county [or counties] in the preceding 12 months;

(3) the percentage of the state's total index crime that occurred in the county [or counties] in the preceding 12 months;

(4) the percentage of the state's total arrests under Chapter 481, Health and Safety Code, that occurred in the county [or counties] in the preceding 12 months;

(5) the percentage of the state's population residing in the county ~~[or-counties]~~;

(6) the percentage of the state's total unemployment in the county ~~[or-counties]~~; and

(7) the percentage of all defendants serving sentences for felonies who were paroled from the institutional division, a jail in this state, a federal correctional institution, or a jail or correctional institution in another state in the preceding 12 months and who were released to reside in the county ~~[or-counties]~~.

(b) *The board shall adopt and enforce an allocation formula that fairly and equitably allocates community corrections program funding to each community supervision and corrections department, in the manner provided by Section 10(a)(3), Article 42.13, Code of Criminal Procedure. In devising the formula, the board shall use the factors listed in Subsection (a), but may assign different weights to those factors than those used in developing the admissions allocation formula. The board also may use factors not listed in Subsection (a) in devising the formula under this subsection.*

(c) If the board is unable to obtain for a factor listed in Subsection (a) information for the preceding 12-month period, the board shall consider the most recent information available for that factor.

(d) ~~[(e)]~~ The board shall revise *each* ~~[the]~~ formula annually.

SECTION 4.06. Section 5(a), Chapter 696, Acts of the 70th Legislature, Regular Session, 1987 (Article 601d-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The authority may issue revenue bonds and distribute bond proceeds to appropriate agencies for use for acquiring, constructing, or equipping new facilities or for major repair or renovation of existing facilities, corrections institutions *including facilities authorized by Section 495.001(a), Government Code, facilities authorized by Section 495.021(a), Government Code, criminal justice facilities for the Texas Department of Criminal Justice, including youth corrections institutions, and mental health and mental retardation institutions.* The proceeds may be used to refinance an existing obligation for a purpose described by this subsection.

SECTION 4.07. Section 493.012, Government Code, is amended to read as follows:

Sec. 493.012. *HISTORICALLY UNDERUTILIZED [DISADVANTAGED] BUSINESS-ES.* (a) The board and the department each shall make a good faith effort to assist *historically underutilized [disadvantaged]* businesses to receive at least 30 [20] percent of the total value of:

(1) each construction contract awarded for construction, purchase of supplies, materials, services, and equipment that the board and the department expect to make; and

(2) *contracts awarded for operation, maintenance, or management [in connection with construction funded by the issuance of bonds].*

(b) The board and the department each shall annually report to the legislature and the governor on the level of *historically underutilized [disadvantaged]* business participation in board and department contracts. The report shall include:

(1) *names and locations of the historically underutilized businesses participating in contracts;*

(2) *types of services conducted by the historically underutilized businesses participating in contracts;*

(3) *a description of the type of recruitment strategy used to attract historically underutilized businesses; and*

(4) *recommendations for the improvement of historically underutilized [disadvantaged] business opportunities with the board and the department.*

(c) In this section, "*historically underutilized business*" means:

(1) *a business entity formed for the purpose of making a profit of which at least 51 percent is owned by one or more persons who are socially disadvantaged because of their identification as members of certain groups, including women, African Americans, Hispanic Americans, Native Americans, and Asian Americans, who have suffered the effects of discriminatory practices or similar insidious circumstances over which they have no control; or*

(2) a corporation formed for the purpose of making a profit in which at least 51 percent of all classes of the shares of stock or other equitable securities is owned by one or more persons described by Subdivision (1). Those persons must have proportionate interest in the control, operation, and management of the corporation's affairs. [~~"disadvantaged business" has the meaning assigned by Section 1.02, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes),]~~

SECTION 4.08. Chapter 494, Government Code, is amended by adding Section 494.011 to read as follows:

Sec. 494.011. **SEAL OF INSTITUTIONAL DIVISION.** (a) The institutional division shall use an official seal to certify documents received by the director under Sections 8(a) and (c), Article 42.09, Code of Criminal Procedure.

(b) The official seal must contain an engraved, five-pointed star in the center with the words "Texas Department of Criminal Justice—Institutional Division" around the margin.

SECTION 4.09. This article takes effect September 1, 1993.

#### ARTICLE 5

SECTION 5.01. Article 42.18, Code of Criminal Procedure, is amended by adding Section 8A to read as follows:

Sec. 8A. (a) In addition to other conditions imposed by a parole panel under this article, the panel shall require as a condition of parole or release to mandatory supervision that the defendant reside during the period of parole or mandatory supervision in the county in which:

(1) the defendant resided at the time of committing the offense for which the defendant was sentenced to the institutional division; or

(2) the defendant committed the offense for which the defendant was sentenced to the institutional division, but only if the defendant was not a resident of this state at the time of committing the offense.

(b) A parole panel may require a defendant to reside in a county other than the county required by Subsection (a) of this section to:

(1) protect the life or safety of a victim of the defendant's offense, the defendant, a witness in the case, or any other person; or

(2) increase the likelihood of the defendant's successful completion of parole or mandatory supervision, because of:

(A) written expressions of significant public concern in the county in which the defendant would otherwise be required to reside;

(B) the presence of family members or friends in the other county who have expressed a willingness to assist the defendant in successfully completing the terms and conditions of the defendant's release on parole or mandatory supervision;

(C) the verified existence of a job offer in the other county; or

(D) the availability of treatment programs, educational programs, or other social service programs in the other county that are not available in the county in which the defendant would otherwise be required to reside.

(c) At any time after a defendant is released on parole or mandatory supervision, a parole panel may modify the conditions of parole or release on mandatory supervision to require the defendant to reside in a county other than the county required by the original conditions. In making a decision under this subsection, a parole panel must consider the factors listed in Subsection (b) of this section.

(d) If a parole panel initially requires the defendant to reside in a county other than the county required by Subsection (a) of this section, the parole panel shall subsequently require the person to reside in the county described by Subsection (a) of this section if the requirement that the defendant reside in the other county was based on:

(1) the verified existence of a job offer under Subsection (b)(2)(C) of this section and the defendant is no longer employed in or actively seeking employment; or

*(2) the availability of treatment programs, educational programs, or other social service programs under Subsection (b)(2)(D) of this section and the defendant:*

*(A) no longer regularly participates in the program as required by a term or condition of parole or release to mandatory supervision; or*

*(B) has successfully completed the program but has violated another term or condition of the defendant's release on parole or mandatory supervision.*

*(e) If a parole panel requires the defendant to reside in a county other than the county required by Subsection (a) of this section, the panel shall state the reason for its decision in writing, and place the statement in the defendant's permanent record.*

*(f) This section does not apply to a decision by a parole panel to require a defendant to serve the period of parole or mandatory supervision in another state.*

SECTION 5.02. Chapter 413, Government Code, is amended by adding Section 413.019 to read as follows:

**Sec. 413.019. REPORT ON INMATE RELEASE STATISTICS.** (a) Each month the policy council shall determine the following information:

*(1) the number and percentage of inmates released on parole or to mandatory supervision to each county;*

*(2) the number and percentage of inmates released on parole in absentia to each county; and*

*(3) the number of inmates released to and from a halfway house in each county, including the number of inmates who are required as a condition of release to reside in a county other than the county in which a halfway house is located.*

*(b) The policy council shall submit to the Texas Board of Criminal Justice an annual report that includes the following information for the preceding 12 months:*

*(1) the number of inmates released on parole or to mandatory supervision;*

*(2) the number and percentage of inmates released on parole or to mandatory supervision to each county, including the number of inmates who are required on release from a halfway house to reside in a county other than the county in which the halfway house is located;*

*(3) the number of inmates released on parole in absentia;*

*(4) the number and destination of inmates who are transferred from one county to another during the period of release or supervision; and*

*(5) the number and percentage of inmates released on parole in absentia to each county.*

*(c) The report required under this section must also include the number of persons under the supervision or custody of the Texas Department of Criminal Justice at the end of a fiscal year, including the type and status of the supervision or custody.*

*(d) The Texas Board of Criminal Justice shall review the information in the annual report to enable the division to make an appropriate and equitable distribution of inmates to each county.*

*(e) The Texas Department of Criminal Justice on a monthly basis shall provide in computer format data required by the policy council to prepare reports under this section.*

SECTION 5.03. The Criminal Justice Policy Council shall make its first annual report as required by Section 413.019, Government Code, as added by this Act, not later than January 1, 1994.

SECTION 5.04. This article takes effect September 1, 1993.

## ARTICLE 6

SECTION 6.01. Sections 413.009, 413.012, 413.015, 413.017, and 413.018, Government Code, are amended to read as follows:

**Sec. 413.009. DUTIES OF POLICY COUNCIL.** To accomplish its duties the policy council shall:

*(1) conduct an in-depth analysis of the criminal justice system;*

(2) determine the long-range needs of the criminal justice system and recommend policy priorities for the system;

(3) identify critical problems in the criminal justice system and recommend strategies to solve those problems;

(4) assess the cost-effectiveness of the use of state and local funds in the criminal justice system;

(5) ~~recommend the goals, priorities, and standards for the allocation of criminal justice planning funds administered by the criminal justice division;~~

~~[(6)]~~ recommend means to improve the deterrent and rehabilitative capabilities of the criminal justice system;

~~(6)~~ ~~[(7)]~~ advise and assist the legislature in developing plans, programs, and proposed legislation for improving the effectiveness of the criminal justice system;

~~(7)~~ ~~[(8)]~~ make computations of daily costs and compare interagency costs on services provided by agencies that are a part of the criminal justice system;

~~(8)~~ ~~[(9)]~~ make population computations for use in planning for the long-range needs of the criminal justice system;

~~(9)~~ ~~[(10)]~~ determine long-range information needs of the criminal justice system and acquire that information; *and*

~~(10)~~ ~~[(11)]~~ engage in other activities consistent with the responsibilities of the policy council~~[-and~~

~~[(12)] implement the criminal justice data report].~~

Sec. 413.012. CONTRACTUAL AUTHORITY. ~~[(a)]~~ The policy council may contract with public or private entities in the performance of its responsibilities.

~~[(b) The policy council may contract with the criminal justice center at Sam Houston State University to provide information important to the work of either council.]~~

Sec. 413.015. CRIMINAL JUSTICE PLAN; *BIENNIAL* ~~[ANNUAL]~~ REPORT. (a) The policy council *biennially* ~~[annually]~~ shall submit to the legislature a plan detailing the actions necessary to promote an effective and cohesive criminal justice system.

(b) The policy council shall include in the plan a report of its activities and the recommendations it makes under Section 413.009.

~~[Sec. 413.017. SPECIAL PROJECTS. (a) Before January 1, 1991, the policy council shall prepare and report to the legislature:~~

~~[(1) a design for conducting a comprehensive study of sentencing patterns and practices in this state;~~

~~[(2) an evaluation of formulas for the fair and equitable allocation of prison beds to local jurisdictions;~~

~~[(3) a study that develops uniform definitions of the term "recidivism" and "revocation rate"; and~~

~~[(4) an examination of the reporting requirements imposed by the state on municipal, county, and district clerk offices and justices of the peace offices that relate to criminal justice system processing, with recommendations relating to the consolidation, simplification, or elimination of requirements where appropriate.~~

~~[(b) The design prepared under Subsection (a)(1) must include:~~

~~[(1) a statement of the specific objectives of the comprehensive study;~~

~~[(2) methodology;~~

~~[(3) schedules for the study;~~

~~[(4) a description of the resources necessary for the study; and~~

~~[(5) two pilot sampling programs, capable of testing the design.~~

~~[(c) Before January 1, 1993, the policy council shall prepare a study on and report to the legislature about statewide sentencing dynamics. The report must include a detailed profile of felons sentenced to the institutional division and felons placed on probation. The policy~~

~~council shall design the study to provide the legislature with information necessary to perform a proper revision of the Penal Code and statutes relating to sentencing in criminal cases.~~

~~[Sec. 413.018. CRIMINAL JUSTICE DATA REPORT. (a) Not later than September 1, 1992, the policy council shall prepare for and distribute to each district court in this state with felony jurisdiction a data collection report form.~~

~~(b) The policy council shall design the data collection report form to collect all information relevant to a sentence in a felony case or to a pretrial diversion or grant of deferred adjudication in a felony case as well as any other information determined necessary by the policy council.~~

~~(c) The attorney representing the state shall complete the data collection report for each felony conviction in which the defendant is sentenced to the institutional division of the Texas Department of Criminal Justice and shall include a copy of the data collection report in the documents sent to the division under Article 42.09, Code of Criminal Procedure. In any disposition of a felony case that does not include confinement in the institutional division, the attorney representing the state shall send a copy of the report to the community supervision and corrections department serving the court.~~

~~(d) If a sentence in a criminal case is imposed pursuant to a plea bargain, the attorney representing the state shall include that information in the data collection report.]~~

SECTION 6.02. This article takes effect September 1, 1993.

#### ARTICLE 7

SECTION 7.01. Article 26.051, Code of Criminal Procedure, is amended by adding Subsections (g) and (h) to read as follows:

*(g) The court shall appoint an attorney other than an attorney provided by the board if the court determines for any of the following reasons that a conflict of interest could arise from the use of an attorney provided by the board under Subsection (e) of this article:*

*(1) the case involves more than one inmate and the representation of more than one inmate could impair the attorney's effectiveness;*

*(2) the case is appealed and the court is satisfied that conflict of interest would prevent the presentation of a good faith allegation of ineffective assistance of counsel by a trial attorney provided by the board; or*

*(3) any conflict of interest exists under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas that precludes representation by an attorney appointed by the board.*

*(h) When the court appoints an attorney other than an attorney provided by the board, the county shall pay from its general fund the first \$250.00 of the aggregate sum allowed and awarded by the court for the attorney fees under Article 26.05 of this code. If the fees awarded for a court-appointed attorney in a case described by this subsection exceed \$250.00, the court shall certify the amount in excess of \$250.00 to the board. On request of the board, the comptroller shall issue a warrant to the court-appointed attorney in the amount certified to the board by the court.*

SECTION 7.02. Article 26.051(f), Code of Criminal Procedure, is repealed.

SECTION 7.03. This article takes effect September 1, 1993.

#### ARTICLE 8

SECTION 8.01. In addition to other amounts appropriated for the fiscal biennium ending August 31, 1995, the balance of the economic stabilization fund, but not to exceed \$72,000,000, is appropriated to the Texas Department of Criminal Justice for:

(1) the operation of additional capacity; and

(2) increased supervision for probation.

SECTION 8.02. This article takes effect September 1, 1993.

## ARTICLE 9

SECTION 9.01. Section 21, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), is amended by adding Subsection (j) to read as follows:

(j) *This Act does not apply to a rule or internal procedure of the Texas Department of Criminal Justice or Texas Board of Criminal Justice that applies to an inmate or any other person under the custody or control of the department, or to an action taken under that rule or procedure.*

SECTION 9.02. Chapter 493, Government Code, is amended by adding Section 493.013 to read as follows:

Sec. 493.013. *APPLICABILITY OF CERTAIN GRIEVANCE PROCEDURES. A grievance procedure of the department or a division of the department, including the procedure established under Section 501.008, applies to a grievance of an inmate or other person under the custody or control of the department relating to a rule or internal procedure of the board or department.*

SECTION 9.03. This article takes effect September 1, 1993.

## ARTICLE 10

SECTION 10.01. Section 6(c), Article 42.18, Code of Criminal Procedure, is amended to read as follows:

(c) *To facilitate the work of the Board of Pardons and Paroles, the governor shall appoint the chairman of the board to serve as chairman of the executive committee. The chairman shall appoint six board members to serve on the executive committee. The committee members serve in that capacity at the pleasure of the chairman. The [and two other members of the Board of Pardons and Paroles who shall serve at the pleasure of the governor as the] executive committee shall [to] coordinate activities of the board, [and] assure maximum efficiency and fair distribution of the caseload, and administer other matters as required by the chairman.*

SECTION 10.02. Article 42.18, Code of Criminal Procedure, is amended by adding Sections 6A and 6B to read as follows:

Sec. 6A. *PERSONNEL OF BOARD. (a) The board may adopt rules as necessary for the employment and supervision of personnel of the board.*

(b) *The board shall employ and supervise:*

- (1) *a general counsel to the board;*
- (2) *an administrative assistant;*
- (3) *hearing officers;*
- (4) *personnel to assist in clemency matters; and*
- (5) *secretarial or clerical personnel.*

(c) *The board shall develop and implement personnel policies.*

Sec. 6B. *GIFTS AND GRANTS. The board may apply for and accept gifts or grants from any public or private source for use in any lawful purpose of the board.*

SECTION 10.03. Sections 7(c), (d), (e), and (f), Article 42.18, Code of Criminal Procedure, are amended to read as follows:

(c) *The board [Texas Board of Criminal Justice] shall develop and implement a policy that clearly defines circumstances under which a board member should disqualify himself from voting on a parole decision or on a decision to revoke parole or mandatory supervision.*

(d) *The board [Texas Board of Criminal Justice] may provide and promulgate a written plan for the administrative review by the entire membership or a subset of the entire membership of the board of actions taken by a parole panel.*

(e) *Except as provided by Subsection (g) of this section, in [in] matters of parole, release to mandatory supervision, and revocation of parole or mandatory supervision, the board members shall act in panels comprised of three persons in each panel. The composition of*



the respective panels shall be designated by the chairman of the board. A majority of each panel shall constitute a quorum for the transaction of its business, and its decisions shall be by majority vote. *The members of a panel are not required to meet as a body to perform the members' duties as prescribed by this article, except to conduct a hearing as provided by Section 14 of this article.*

(f) The members of the board shall meet at least once in each quarter of the calendar year at a site determined by the chairman. *The members of the board are not required to meet as a body to perform the members' duties in clemency matters [for the purpose of making clemency decisions. As a specific exception to Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), the board, at the call of the chair, may hold a hearing on clemency matters by telephone conference call. The portion of a meeting that is public shall be recorded and the recording made available to the public to be heard at one or more places designated by the board].*

SECTION 10.04. Sections 8(a), (e), (f), and (h), Article 42.18, Code of Criminal Procedure, are amended to read as follows:

(a) A parole panel is authorized to release on parole any person confined in any penal or correctional institution who is eligible for parole under this section. A parole panel may consider a person for release on parole if the person has been sentenced to a term of imprisonment in the institutional division, is confined in a jail in this state, a federal correctional institution, or a jail or a correctional institution in another state, and is eligible for parole. A parole panel may release a person on parole during the [tentative] parole month established for the person if the panel determines that the person's release will not increase the likelihood of harm to the public *[or that the person has not failed to progress in the manner required by the panel in Subsection (e) of this section]*. The institutional division *shall [may]* provide the board [pardons and paroles division] with sentence time credit information on persons described in this subsection. *Good [and the pardons and paroles division may develop its own sentence time credit information on persons described by this subsection, but in either event, good]* time credit shall be calculated for a person as if the person were confined in the institutional division during the entire time the person was actually confined. The period of parole shall be equivalent to the maximum term for which the prisoner was sentenced less calendar time actually served on the sentence. Every prisoner while on parole shall remain in the legal custody of the pardons and paroles division and shall be amenable to conditions of supervision ordered *by a parole panel* under this article. All paroles shall issue upon order of a parole panel.

(e) Not later than the 120th day after the date on which a prisoner is admitted to the institutional division, the *Texas Department of Criminal Justice [pardons and paroles division]* shall secure all pertinent information relating to the prisoner, including but not limited to the court judgment, any sentencing report, the circumstances of the prisoner's offense, the prisoner's previous social history and criminal record, the prisoner's physical and mental health record, a record of the prisoner's conduct, employment history, and attitude in prison, and any written comments or information provided by local trial officials or victims of the offense. *The Texas Department of Criminal Justice [Except as otherwise provided by this subsection, within the 120-day period, the pardons and paroles division]* shall establish *[a tentative parole month for the prisoner based on information gathered under this subsection and]* a proposed program of measurable institutional progress *that must be submitted to the board at the time of the board's consideration of the inmate's case for release. The board shall conduct an initial review of an eligible inmate not later than the 180th day after the date of the inmate's admission to the institutional division. Before the inmate is approved for release to parole by the board, the inmate must agree to participate in the programs and activities described by the proposed program of measurable institutional progress [in which the pardons and paroles division determines the prisoner must agree to participate and meet the requirements before being released on parole. The pardons and paroles division is not required to establish a tentative parole month and program of progress if the pardons and paroles division determines that to do so would be inappropriate in the prisoner's case and indicates that determination in the prisoner's file. The pardons and paroles division shall notify the institutional division of each prisoner's tentative parole month and proposed program of measurable institutional progress. Within 30 days of receipt of notice from the pardons and paroles division, the institutional division shall advise the pardons and paroles*

~~division if any of the proposed programs of measurable institutional progress or the requirements of those programs cannot be achieved within the prisoner's unit of incarceration. The tentative parole month may not be a date that is earlier than the prisoner's initial parole eligibility date, as calculated or projected under Subsection (b) of this section. The pardons and paroles division may revise a tentative parole month established under this subsection at any time the pardons and paroles division determines is proper. The institutional division shall work closely with the board [pardons and paroles division] to monitor the progress of the inmate [inmates] in the institutional division and shall report the progress to the board before the inmate's release.~~

(f)(1) In this subsection: (A) "close relative of a deceased victim" means a person who was the spouse of a deceased victim at the time of the victim's death, a parent of the deceased victim, or an adult brother, sister, or child of the deceased victim; (B) "guardian of a victim" means a person who is the legal guardian of a victim, whether or not the legal relationship between the guardian and victim exists because of the age of the victim or the physical or mental incompetency of the victim; and (C) "victim" means a person who is a victim of sexual assault, kidnapping, or aggravated robbery or who has suffered bodily injury or death as the result of the criminal conduct of another.

(2) Before a parole panel considers for parole a prisoner who is serving a sentence for an offense in which a person was a victim, the pardons and paroles division, using the name and address provided on the victim impact statement, shall make a reasonable effort to notify a victim of the prisoner's crime or if the victim has a legal guardian or is deceased, to notify the legal guardian or close relative of the deceased victim. If the notice is sent to a guardian or close relative of a deceased victim, the notice must contain a request by the pardons and paroles division that the guardian or relative inform other persons having an interest in the matter that the prisoner is being considered for parole. If a hearing is held, the parole panel shall allow a victim, guardian of a victim, close relative of a deceased victim, or a representative of a victim or his guardian or close relative to provide a written statement. This subsection may not be construed to limit the number of persons who may provide statements for or against the release of the prisoner on parole. The parole panel shall consider the statements and the information provided in a victim impact statement in determining whether or not to recommend parole. However, the failure of the pardons and paroles division to comply with notice requirements of this subsection is not a ground for revocation of parole.

(3) If a victim, guardian of a victim, or close relative of a deceased victim would be entitled to notification of parole consideration by the pardons and paroles division but for failure by that person to provide a victim impact statement containing the person's name and address, the person is nonetheless entitled to receive notice if the person files with the pardons and paroles division a written request for that notification. After receiving such a written request, the pardons and paroles division shall grant to the person all the privileges to which the person would be entitled had the person submitted a victim impact statement. Before a prisoner is released from the institutional division on parole or on the release of a prisoner on mandatory supervision, the pardons and paroles division shall give notice of the release to any person entitled to notification of parole consideration for the prisoner because the person filed with the pardons and paroles division a victim impact statement or a request for notification of a parole consideration.

(4) Except as necessary to comply with this section, the ~~board [pardons and paroles division]~~ or the *Texas Department of Criminal Justice* [institutional division] may not disclose to any person the name or address of a victim or other person entitled to notice under this section unless the victim or that person approves the disclosure or the ~~board [pardons and paroles division]~~ or the department is ordered to disclose the information by a court of competent jurisdiction after the court determines that there is good cause for disclosure.

(5) Before ordering the parole of any prisoner, a parole panel may have the prisoner appear before it and interview him. A parole shall be ordered only for the best interest of society, not as an award of clemency; it shall not be considered to be a reduction of sentence or pardon. The ~~board [pardons and paroles division]~~ shall develop and implement [standard] parole guidelines that shall be the basic criteria on which parole decisions are

made. The parole guidelines shall be developed according to an acceptable research method and shall be based on the seriousness of the offense and the likelihood of favorable parole outcome. The board ~~[pardons and paroles division]~~ shall review the parole guidelines periodically and make ~~reports on those reviews to the Legislative Criminal Justice Board~~ ~~[any revisions considered necessary by virtue of statistical analysis of board actions using acceptable research methodology]~~. *If a member of the board deviates from the parole guidelines in casting a vote on a parole decision, the member shall produce a brief written statement describing the circumstances regarding the departure from the guidelines and place a copy of the statement in the file of the inmate for whom the parole decision was made. The board shall keep a copy of each statement in a central location.* A prisoner shall be placed on parole only when arrangements have been made for his employment or for his maintenance and care and when the parole panel believes that he is able and willing to fulfill the obligations of a law-abiding citizen. Every prisoner while on parole shall remain in the legal custody of the pardons and paroles division and shall be amenable to the conditions of supervision ordered under this article.

(h) It shall be the duty of the *pardons and paroles division* ~~[board]~~ at least 10 days before ~~the board orders~~ ~~[ordering]~~ the parole of any prisoner or at least 10 days after recommending the granting of executive clemency by the governor to notify the sheriff, the prosecuting attorney, and the district judge in the county where such person was convicted and the county to which the prisoner is released that such parole or clemency is being considered by the board or by the governor. For any case in which there was a change of venue, the *pardons and paroles division* ~~[board]~~ shall notify those same officials in the county in which the prosecution was originated if, no later than 30 days after the date on which the defendant was sentenced, those officials request in writing that the *pardons and paroles division* ~~[board]~~ give them notice under this section of any future release of the prisoner. Additionally, no later than the 10th day after the parole panel orders the transfer of a prisoner to a halfway house under this article, the *pardons and paroles division* ~~[parole panel]~~ shall notify the sheriff of the county in which the prisoner was convicted and shall notify the sheriff of the county in which the halfway house is located and the attorney who represents the state in the prosecution of felonies in that county. The notice must state the prisoner's name, the county in which the prisoner was convicted, and the offense for which the prisoner was convicted.

SECTION 10.05. Section 9, Article 42.18, Code of Criminal Procedure, is amended to read as follows:

Sec. 9. DUTY TO PROVIDE INFORMATION, COMPUTERS, AND OFFICES. (a) It shall be the duty of any judge, district attorney, county attorney, police officer, or other public official of the state having information with reference to any prisoner eligible for parole to send in writing such information as may be in his possession or under his control to the pardons and paroles division, upon request of any member of the Board of Pardons and Paroles or employee of the *board or the pardons and paroles division*.

(b) *The Texas Department of Criminal Justice may, by interagency contract, provide to the board necessary computer equipment and computer access to all computerized records and physical access to all hard copy records in the custody of the department that are related to the duties and functions of the board.*

(c) *The Texas Department of Criminal Justice may, by interagency contract, provide to the board necessary and appropriate office space in the locations designated by the chairman of the board and utilities and communication equipment.*

SECTION 10.06. Section 10, Article 42.18, Code of Criminal Procedure, is amended to read as follows:

Sec. 10. ACCESS TO PRISONERS. It shall be the duty of the institutional division to grant to the members of the board and employees of *the board and the pardons and paroles division* access at all reasonable times to any prisoner, to provide for the members and employees or such representatives facilities for communicating with and observing such prisoner, and to furnish to the members and employees such reports as the members and employees shall require concerning the conduct and character of any prisoner in their custody and any other facts deemed by a parole panel pertinent in determining whether such prisoner shall be paroled.

SECTION 10.07. Section 13(a), Article 42.18, Code of Criminal Procedure, is amended to read as follows:

(a) A warrant for the return of a paroled prisoner, a prisoner released to mandatory supervision, a prisoner released although not eligible for release, a resident released to a preparole or work [furlough] program, a prisoner released on emergency reprieve or on furlough, or a person released on a conditional pardon to the institution from which the person [he] was paroled, released, or pardoned may be issued by the *director or a designated agent of the director* [~~members of parole panels~~] in cases of parole or mandatory supervision, or by the board on order by the governor in other cases, if [when] there is reason to believe that the person [he] has been released although not eligible for release, *if the person has been arrested for an offense, if there is a verified complaint stating that the person violated a rule or condition of release, or if there is reliable evidence that the person has exhibited behavior during the person's release that indicates to a reasonable person that the person poses a danger to society that warrants the person's immediate return to custody.* The person may be held in custody pending a determination of all facts surrounding the alleged offense, violation of a rule or condition of release, or dangerous behavior. *A designated agent of the director acts independently from a parole officer and must receive specialized training as determined by the director,* ~~committed an offense against the laws of this state or of the United States, violated a condition of his parole, mandatory supervision, or conditional pardon, or when the circumstances indicate that he poses a danger to society that warrants his immediate return to incarceration~~. Such warrant shall authorize all officers named therein to take actual custody of the prisoner and detain and house the prisoner until a *parole panel* [~~the pardons and paroles division~~] orders the return of the prisoner to the institution from which he was released. Pending hearing, as hereinafter provided, upon any charge of parole violation, ineligible release, or violation of the conditions of mandatory supervision, a prisoner returned to custody shall remain incarcerated. *If the director, a board member, or a designated agent of the director or the board* [~~a parole panel~~] is otherwise authorized to issue a warrant under this subsection, the pardons and paroles division may instead issue to a prisoner a summons requiring the prisoner to appear for a hearing under Section 14 of this article. The summons must state the time, place, date, and purpose of the hearing.

SECTION 10.08. Section 14, Article 42.18, Code of Criminal Procedure, is amended to read as follows:

Sec. 14. HEARINGS; SANCTIONS. (a) Whenever a prisoner or a person granted a conditional pardon is accused of a violation of his parole, mandatory supervision, or conditional pardon, on information and complaint by a law enforcement officer or parole officer, or is arrested after an ineligible release, he shall be entitled to be heard on such charges before a parole panel or a designee of the *board* [~~division~~] under such rules as the *board* [~~Texas Board of Criminal Justice~~] may adopt; provided, however, said hearing [~~shall be a public hearing and~~] shall be held within 70 days of the date of arrest under a warrant issued by the *director or a designated agent of the director* [~~a parole panel~~] or *by the board on order by the governor* and at a time and place set by that parole panel or designee. The panel or designee may hold the hearing at a date later than the date otherwise required by this section if it determines a delay is necessary to assure due process for the person, *except that the authority issuing the warrant shall immediately withdraw the warrant if the hearing is not held before the 121st day after the date of arrest, regardless of whether the person agrees to delay the hearing until after that date.* If a parole panel or designee determines that a parolee, mandatory supervisee, or person granted a conditional pardon has been convicted in a court of competent jurisdiction of a felony offense committed while an administrative releasee and has been sentenced by the court to a term of incarceration in a penal institution, the determination is to be considered a sufficient hearing to revoke the parole or mandatory supervision or recommend to the governor revocation of a conditional pardon without further hearing, except that the parole panel or designee shall conduct a hearing to consider mitigating circumstances if requested by the parolee, mandatory supervisee, or person granted a conditional pardon. When the parole panel or designee has heard the facts, *the board* [it] may recommend to the governor that the conditional pardon be continued, revoked, or modified, or it may continue, revoke, or modify the parole or mandatory supervision, in any manner warranted by the evidence. ~~The Texas Board of Criminal Justice shall develop and implement a system of sanctions that may be imposed by the pardons and paroles division on~~

~~a person whose conditional pardon or release on parole or mandatory supervision is continued or modified.]~~ The parole panel or designee must make its recommendation or decision no later than the 30th day after the date the hearing is concluded. When a person's parole, mandatory supervision, or conditional pardon is revoked, that person may be required to serve the portion remaining of the sentence on which he was released, such portion remaining to be calculated without credit for the time from the date of his release to the date of revocation. When a warrant is issued charging a violation of release conditions, the sentence time credit may be suspended until a determination is made in such case and such suspended time credit may be reinstated should such parole, mandatory supervision, or conditional pardon be continued.

(b) The ~~board [pardons and paroles division]~~ shall develop and implement a training program for designees of the ~~board [division]~~ who conduct hearings under this section. The training program must assist the designees in understanding issues relating to the revocation process.

SECTION 10.09. Sections 15(b) and (c), Article 42.18, Code of Criminal Procedure, are amended to read as follows:

(b) *The pardons and paroles division* ~~[A parole panel]~~ may allow a person released on parole or mandatory supervision to serve the remainder of the person's sentence without supervision and without being required to report if:

(1) the person has been under the supervision for not less than one-half of the time that remained on the person's sentence when the person was released from imprisonment and during the period of supervision the person's parole or release on mandatory supervision has not been revoked; and

(2) the *pardons and paroles division* ~~[parole panel]~~ determines that:

(A) the person has made a good faith effort to comply with any restitution order imposed on the person by a court of competent jurisdiction; and

(B) allowing the person to serve the remainder of the person's sentence without supervision and reporting is in the best interest of society.

(c) *The pardons and paroles division* ~~[A parole panel]~~ may require a person released from supervision and reporting under Subsection (b) of this section to resubmit to supervision and resume reporting at any time, and for any reason.

SECTION 10.10. Section 17, Article 42.18, Code of Criminal Procedure, is amended by adding Subsection (c) to read as follows:

(c) *At any time before setting a revocation hearing date under Section 14(a) of this article, the pardons and paroles division may withdraw a warrant and continue supervision of a released person.*

SECTION 10.11. Section 24, Article 42.18, Code of Criminal Procedure, is amended to read as follows:

Sec. 24. INTENSIVE SUPERVISION. The pardons and paroles division shall establish a program to provide intensive supervision to inmates released under the provisions of Subchapter B, Chapter 498, Government Code, and other inmates determined by parole panels *or the pardons and paroles division* to require intensive supervision. The Texas Board of Criminal Justice shall adopt rules that establish standards for determining which inmates require intensive supervision. The program must provide the highest level of supervision provided by the pardons and paroles division.

SECTION 10.12. Section 25(g), Article 42.18, Code of Criminal Procedure, is amended to read as follows:

(g) The pardons and paroles division may enter into a contract with a public or private vendor *for the financing, construction, operation, or management of community-based facilities using lease-purchase or installment sale contracts* to provide or supplement housing, board, or supervision for persons placed in community-based facilities. A person housed or supervised in a facility operated by a vendor under a contract is subject to the same provisions of law as if the housing or supervision were provided directly by the pardons and paroles division.

SECTION 10.13. Section 4, Article 42.18, Code of Criminal Procedure, is amended by adding Subsection (a-1) to read as follows:

*(a-1) In determining eligibility under Subsection (a)(3) of this section, the compensation or reimbursement that a board member's spouse receives as an employee of the board or of the Texas Department of Criminal Justice may not be considered. This subsection does not affect any restriction on employment or board membership imposed by any other law.*

SECTION 10.14. Section 17, Article 42.18, Code of Criminal Procedure, is amended by adding Subsection (d) to read as follows:

*(d) The Texas Board of Criminal Justice, through the pardons and paroles division, may as part of a pilot program contract with the commissioners court of Travis County or the Travis County community supervision and corrections department for the supervision of inmates released on parole or mandatory supervision. The commissioners court or the community supervision and corrections department may not enter into a contract under this section without first consulting with the community justice council serving Travis County. The commissioners court or the community supervision and corrections department may subcontract with a private vendor for the provision of any or all services described in this subsection. This subsection expires on September 1, 1995.*

SECTION 10.15. (a) Not later than September 1, 1994, the Board of Pardons and Paroles shall determine the appropriate qualifications of hearings officers to be employed by the board and designated to conduct hearings under Section 14, Article 42.18, Code of Criminal Procedure, as amended by this article. The board shall submit a report of the qualifications to the Legislative Budget Board and the governor's office for approval. Any new qualifications are effective not later than September 1, 1995.

(b) On September 1, 1993, an employee of the pardons and paroles division of the Texas Department of Criminal Justice described by Section 6A(b), Article 42.18, Code of Criminal Procedure, as added by this article, who performs tasks relating to the powers, duties, and obligations created under this article and assigned to the Board of Pardons and Paroles becomes an employee of the Board of Pardons and Paroles, to be assigned at the direction of the chairman of the Board of Pardons and Paroles.

(c) From funds appropriated for the fiscal years ending August 31, 1994, and August 31, 1995, by the legislature to the Texas Department of Criminal Justice for the payment of salaries, interagency contract services, travel, capital outlay, and operating expenses, the following amounts are transferred to the Board of Pardons and Paroles:

- (1) on September 1, 1993, an amount not to exceed \$5,785,766; and
- (2) on September 1, 1994, an amount not to exceed \$5,636,375.

SECTION 10.16. This article takes effect September 1, 1993.

## ARTICLE 11

SECTION 11.01. Article 42.18, Code of Criminal Procedure, is amended by adding Section 4A to read as follows:

**Sec. 4A. PROHIBITED REPRESENTATION.** *(a) This section applies to a person who is eligible to represent a person for compensation under Section 11 of this article.*

*(b) A person serving as a member or employee of the Board of Pardons and Paroles or the Texas Board of Criminal Justice may not, for a period of 10 years after the date the person ceases to be a board member or employee, represent any person in a matter before the board or a panel of the board or receive compensation for services rendered on behalf of any person regarding a matter pending before the board or a panel of the board.*

*(c) A person, other than a person subject to Subsection (b) of this section, who is employed by the Texas Department of Criminal Justice may not, for a period of 10 years after the date the person terminates service with the department, represent an inmate in a matter before the board or a panel of the board or receive compensation for services rendered on behalf of any person regarding a matter pending before the board or a panel of the board.*

*(d) A former member or employee of the Board of Pardons and Paroles or the Texas Board of Criminal Justice or a former employee of the Texas Department of Criminal*

*Justice may not represent any person or receive compensation for services rendered on behalf of any person regarding a matter pending before the board or a panel of the board with which the former member or employee was directly concerned during the period of service or employment on or with either board or the department, either through personal involvement or because the matter was within the member's or employee's official responsibility while associated with the board or the department.*

*(e) A former member or employee of the Board of Pardons and Paroles or the Texas Board of Criminal Justice or a former employee of the department commits an offense if the former member or employee violates this section. An offense under this subsection is a Class A misdemeanor.*

SECTION 11.02. Section 7, Article 42.18, Code of Criminal Procedure, is amended by adding Subsections (g) and (h) to read as follows:

*(g) The board may grant parole to a person convicted of a capital felony only on a two-thirds vote of the entire membership of the board.*

*(h) The board shall develop for its members a comprehensive training and education program on the Texas criminal justice system, with special emphasis on the parole process. A new member may not participate in a vote of the board or a panel until the member completes the program.*

SECTION 11.03. Section 8, Article 42.18, Code of Criminal Procedure, is amended by adding Subsection (o) to read as follows:

*(o) The pardons and paroles division shall develop and implement a comprehensive program to inform inmates, their families, and other interested parties about the parole process. The division shall update the program annually.*

SECTION 11.04. Section 11, Article 42.18, Code of Criminal Procedure, is amended to read as follows:

**Sec. 11. REPRESENTATION OF INMATES [INFORMATION AND ARGUMENTS].**

(a) The board ~~[Texas Board of Criminal Justice]~~ shall adopt rules as to:

*(1) the submission and presentation of information and arguments to the board, parole panels, and the pardons and paroles division for and in behalf of an inmate; and [any person within the jurisdiction of a panel or the division]*

*(2) the time, place, and manner of contact between a person representing an inmate and a member of the board, an employee of the board, or an employee of the pardons and paroles division.*

(b) A person who represents an inmate for compensation:

*(1) must be an attorney licensed in this state; and*

*(2) must register with the Texas Ethics Commission*

~~[All persons presenting information or arguments to a panel or the division shall submit therewith an affidavit stating whether any fee has been paid or is to be paid for their services in the case, the amount of such fee, if any, and by whom such fee is paid or to be paid].~~

*(c) A person required to register under this section shall file a fee affidavit with the pardons and paroles division in a form prescribed by the division for each inmate the person represents for compensation before the person first contacts a member of the board, an employee of the board, or an employee of the pardons and paroles division on behalf of the inmate.*

(d) The fee affidavit must be written and verified and contain:

*(1) the registrant's full name and address;*

*(2) the registrant's normal business, business phone number, and business address;*

*(3) the full name of any former member or employee of the Board of Pardons and Paroles or the Texas Board of Criminal Justice or any former employee of the Texas Department of Criminal Justice with whom the person:*

*(A) is associated;*

*(B) has a relationship as an employer or employee; or*

- (C) maintains a contractual relationship to provide services;
- (4) the full name and institutional identification number of the inmate the registrant represents;
- (5) the amount of compensation the person has received or expects to receive in exchange for the representation; and
- (6) the name of the person making the compensation.
- (e) The division shall, not later than the third day after the date the fee affidavit is filed, place a copy of the affidavit in the file of an inmate that a parole panel or the board reviews. The division shall also keep a copy of each fee affidavit in a central location.
- (f) If a person who has registered under this section receives compensation in excess of the amount reported on the fee affidavit, the person must file with the pardons and paroles division, not later than the fifth day after the date the person receives the additional compensation, a supplemental fee affidavit in a form prescribed by the division indicating the total amount of compensation received for representing that inmate. The division shall follow the procedures in Subsection (e) of this section to process the supplemental affidavit.
- (g) A person required to register under this section shall, for each calendar year the person represents an inmate, file a representation summary form with the Texas Ethics Commission on a form prescribed by the commission. The form must be filed not later than the last day of January in the first year following the reporting period and include:
- (1) the registrant's full name and address;
  - (2) the registrant's normal business, business phone number, and business address;
  - (3) the full name of any former member or employee of the Board of Pardons and Paroles or the Texas Board of Criminal Justice or any former employee of the Texas Department of Criminal Justice with whom the person:
    - (A) is associated;
    - (B) has a relationship as an employer or employee; or
    - (C) maintains a contractual relationship to provide services;
  - (4) the full name and institutional identification number of each inmate the registrant represented in the previous calendar year; and
  - (5) the amount of compensation the person has received for representing each inmate in the previous calendar year.
- (h) A person who registers under Subsection (g) of this section and for whom the information required for registration has changed shall, not later than the 10th day after the date the information changes, file a supplemental statement with the Texas Ethics Commission indicating the change.
- (i) The Texas Ethics Commission shall submit to the pardons and paroles division a copy of each representation summary form that is filed.
- (j) A person commits an offense if the person represents an inmate for compensation and the person is not an attorney licensed in this state. An offense under this subsection is a Class C misdemeanor.
- (k) A person commits an offense if a person is required to register under Subsection (g) or make a filing under Subsection (c), (f), or (h) of this section and the person fails to register or make the filing. An offense under this subsection is a Class C misdemeanor.
- (l) Failure to register as required by Subsections (b) and (g) of this section constitutes violation of a law administered and enforced by the Texas Ethics Commission for the purposes of Section 1.28, Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6252-9d.1, Vernon's Texas Civil Statutes).
- (m) In this section:
- (1) "Compensation" has the meaning assigned by Section 305.002, Government Code.
  - (2) "Inmate" includes an administrative releasee, a person imprisoned in the institutional division, and a person confined in a county jail awaiting transfer to the institutional division or awaiting a revocation hearing.



(3) "Represent" means to directly or indirectly contact in person or by telephone, facsimile transmission, or correspondence a member or employee of the board or an employee of the pardons and paroles division on behalf of an inmate.

SECTION 11.05. Section 18, Article 42.18, Code of Criminal Procedure, is amended to read as follows:

Sec. 18. CONFIDENTIAL INFORMATION. All information obtained and maintained in connection with inmates of the institutional division subject to parole, release to mandatory supervision, or executive clemency, or individuals who may be on mandatory supervision or parole and under the supervision of the pardons and paroles division, or persons directly identified in any proposed plan of release for a prisoner, including victim impact statements, lists of inmates eligible for parole, and inmates' arrest records, shall be confidential and privileged information and shall not be subject to public inspection; provided, however, that all such information shall be available to the governor, [and] the members of the board, and the Criminal Justice Policy Council to perform its duties under Section 413.021, Government Code, upon request. It is further provided that statistical and general information respecting the parole and mandatory supervision program and system, including the names of paroled prisoners, prisoners released to mandatory supervision, and data recorded in connection with parole and mandatory supervision services, shall be subject to public inspection at any reasonable time.

SECTION 11.06. Chapter 413, Government Code, is amended by adding Section 413.021 to read as follows:

Sec. 413.021. REVIEW OF USE OF PAROLE GUIDELINES. The policy council shall report at least annually to the Legislative Criminal Justice Board, the Texas Board of Criminal Justice, and the Board of Pardons and Paroles on the use of the parole guidelines by each member of the board in making parole decisions.

SECTION 11.07. (a) Section 4A, Article 42.18, Code of Criminal Procedure, as added by Section 11.01 of this article, applies only to a person who ceases to be a member or employee of the Board of Pardons and Paroles or the Texas Board of Criminal Justice or an employee of the Texas Department of Criminal Justice on or after the effective date of this article.

(b) The requirement in Section 7(h), Article 42.18, Code of Criminal Procedure, as added in Section 11.02 of this article, that a new member of the Board of Pardons and Paroles attend a comprehensive training and education program on the Texas criminal justice system applies only to a member who begins service on or after the effective date of this article.

(c) The Criminal Justice Policy Council shall make its first report as required by Section 413.021, Government Code, as added by Section 11.06 of this Act, not later than January 1, 1995.

SECTION 11.08. This article takes effect September 1, 1993.

## ARTICLE 12

SECTION 12.01. Notwithstanding any provision of this Act establishing an effective date for an article of this Act, this Act takes effect only if Senate Bill No. 1067, Acts of the 73rd Legislature, Regular Session, 1993, takes effect. If Senate Bill No. 1067 does not take effect, this Act has no effect.

SECTION 12.02. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 22, 1993: Yeas 29, Nays 0; May 11, 1993, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 19, 1993, House granted request of the Senate; May 27, 1993, Senate adopted Conference Committee Report by a viva-voce vote; passed subject to the provisions of Article III, Section 49a, of the Constitution of Texas; passed the House, with amendments, on May 8, 1993: Yeas 109, Nays 0, one present not voting; May 19, 1993, House granted request of the Senate for appointment of Conference Committee; May 28, 1993, House adopted Conference Committee Report by the

following vote: Yeas 141, Nays 0, one present not voting; passed subject to the provisions of Article III, Section 49a, of the Constitution of Texas.

Approved June 16, 1993.

Effective Sept. 1, 1993 and as provided in § 12.01.

## CHAPTER 989

### S.B. No. 551

#### AN ACT

relating to excluding certain sums related to asset-backed securities from the definition of interest.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Subtitle 1, Title 79, Revised Statutes (Article 5069-1.01 et seq., Vernon's Texas Civil Statutes), is amended by adding Article 1.13 to read as follows:

**Art. 1.13. CERTAIN SUMS EXCLUDED FROM DEFINITION OF INTEREST WITH RESPECT TO ASSET-BACKED SECURITIES.** (a) *In this article:*

(1) "Asset-backed securities" means debt obligations or certificates of beneficial ownership that are:

(A) part of a single issue or single series of securities aggregating \$1,000,000 or more issuable in one or more classes;

(B) secured by a pledge of or represent an undivided ownership interest in one or more financial assets, either fixed or revolving, that by their terms convert into cash within a finite time period plus any rights or other assets designed to assure the servicing or timely distribution of proceeds to security holders; and

(C) issued by a pass-through entity for a business, commercial, agricultural, investment, or similar purpose.

(2) "Pass-through entity" means a corporation, limited liability company, association, general partnership, registered limited liability partnership, limited partnership or business, grantor or common-law trust under state law, or segregated pool of assets under federal tax law that, on the date of original issuance of asset-backed securities, does not have significant assets other than:

(A) assets pledged to or held for the benefit of holders of the asset-backed securities; or

(B) assets pledged to or held for the benefit of holders of other asset-backed securities issued on an earlier date.

(b) Notwithstanding Article 1.01 of this subtitle, for purposes of this title the term "interest" excludes any sums paid or passed through, obligated to be paid or to be passed through, or not paid as a result of a discounted sale price to the holders of asset-backed securities by a pass-through entity, in connection with the original issuance or otherwise, regardless of the denomination of the sums under the terms of the asset-backed securities. Sums excluded from the definition of interest by this article are not subject to Article 1.04 of this subtitle.

(c) This article does not affect or otherwise apply to conventional interest, as defined by Article 1.01 of this subtitle, paid, charged, or received on the ultimate underlying assets pledged to or held for the benefit of the holders of asset-backed securities.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.